

STATE WATER RESOURCES CONTROL BOARD

PUBLIC HEARING

CALIFORNIA DEPARTMENT OF FISH AND GAME'S  
LOWER YUBA RIVER FISHERIES MANAGEMENT PLAN

AND A COMPLAINT BY

THE UNITED GROUP AGAINST YUBA COUNTY WATER AGENCY  
AND OTHER DIVERTERS OF WATER FROM THE LOWER YUBA RIVER  
IN YUBA COUNTY

PAUL R. BONDERSON BUILDING  
SACRAMENTO, CALIFORNIA

MARCH 7, 2000

9:00 A.M.

REPORTER BY:

ESTHER F. WIATRE  
CSR NO. 15164

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SACRAMENTO, CALIFORNIA

TUESDAY, MARCH 7, 2000 9:00 A.M.

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H.O. BROWN: We will come to order.

This is the continuation of the supplemental water right hearing regarding the Lower Yuba River.

Mr. Lilly, I believe you are up.

MR. MONA: Mr. Brown, before we begin, there is a little housekeeping matter we have to deal with. Yesterday afternoon Mr. Cook correctly advised staff that two of his written testimony documents were submitted, and we forgot to identify them.

I would like this time to identify the written testimony of William Calvert as S-Cook-3, and the written testimony of Walter Cook as S-Cook-4.

H.O. BROWN: Is that correct, Mr. Cook?

MR. COOK: I did ask yesterday that they be admitted into evidence. I think I neglected to do that at the close of my case. But I do now ask that those be admitted into evidence.

H.O. BROWN: Are there any objections to the admission of those in evidence?

All right. Those exhibits, then, will be included into evidence.

Thank you, Mr. Cook.

1 Mr. Minasian.

2 MR. MINASIAN: Mr. Brown, there are 25 copies of the  
3 exhibits that were introduced yesterday in cross-examination  
4 available for everybody to come take one at the front table,  
5 and I provided six to the staff.

6 H.O. BROWN: Off the record for just a moment, Esther.

7 (Break taken.)

8 H.O. BROWN: We are back on the record.

9 I welcome Mr. Jim Stubchaer and Chairman of State Water  
10 Resources Control Board is joining us this morning. And  
11 welcome, Jim.

12 MR. STUBCHAER: Thank you.

13 Morning everyone.

14 H.O. BROWN: Mr. Lilly.

15 MR. LILLY: I would also like to welcome Mr. Stubchaer.  
16 I think when we started this hearing in 1992 he had just  
17 gotten to be on the Board. So, give you an idea of how long  
18 this proceeding has been going on. He has now finished his  
19 second term.

20 MR. STUBCHAER: It was March 9th, it was my second  
21 day.

22 H.O. BROWN: At least that shows you there is  
23 continuity here.

24 MR. LILLY: I am glad we have it.

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DIRECT EXAMINATION OF YUBA COUNTY WATER AGENCY

BY MR. LILLY

MR. LILLY: Mr. Wilson, would you please state your name for the record and spell your last name.

MR. WILSON: Donn Wilson, W-i-l-s-o-n.

MR. LILLY: Have you previously taken the oath in this hearing?

MR. WILSON: Yes, I have.

MR. LILLY: I am going to hand you a copy of the Exhibit S-YCWA-1 and ask you to look at that and tell us if that is an accurate statement of your education and work experience.

MR. WILSON: Yes, it is.

MR. LILLY: Now I am going to hand you a copy of S-YCWA-11, and ask you if that is an accurate statement of your testimony for this hearing?

MR. WILSON: Yes, it is.

MR. LILLY: All right. We will just spend a few minutes summarizing that testimony, and I will just kind of go through the different categories and ask you to summarize those.

Could you start with a brief summary of the introduction.

MR. WILSON: I am the Engineer Administrator for Yuba County Water Agency, and I held that position since November

1 of 1987. I am familiar with and responsible for all Yuba  
2 County Water Agency water operations.

3 My testimony that I am summarizing today and will be  
4 submitting updates the testimony that I gave in 1992.

5 MR. LILLY: Let's go on to the second section of your  
6 written testimony. Could you please just summarize the  
7 abilities of the Yuba County Water Agency to control water  
8 temperatures in the Lower Yuba River.

9 MR. WILSON: Yuba County Water Agency through its  
10 operation of principally New Bullards Bar Reservoir can  
11 influence temperatures in the Lower Yuba River, but they  
12 cannot control them. Releases from New Bullards Bar  
13 Reservoir are usually through the multilevel power tunnel  
14 intake that is on the upstream side of New Bullards Bar Dam.  
15 I would like to put up an overhead to show what that is  
16 like.

17 MR. LILLY: For the record, this overhead is  
18 Attachment 1 to S-YCWA-11.

19 MR. WILSON: The power tunnel intake has basically two  
20 levels of intake. The lower level and then the upper level.  
21 In addition to the intake itself, it has slides and it has  
22 nine levels of shutters that can be put in at 13-foot  
23 increments to control the level at which water is drawn from  
24 New Bullards Bar.

25 This system can be operated with both the upper and

1 lower outlets open or with either one of them  
2 independently. And the operating criteria on the upper  
3 level outlet with shutters is -- we are supposed to maintain  
4 at least 40 feet of head over the sill of any of the  
5 shutters or the intakes.

6 From the start of Yuba River Development Project in  
7 1970 until 1991 the directions that we had received from  
8 Department of Fish and Game for the operation of this  
9 multilevel outlet was in April to release warm water near  
10 the surface of the reservoir and starting in September to  
11 release as cold a water as we could, go to the lower level  
12 outlet. Beginning in 1991, only the low level outlet has  
13 been used, except for a short period in 1993.

14 In 1993 Yuba County Water Agency convened a temperature  
15 advisory committee to attempt to get more refined guidance  
16 in regard to the operation of this multilevel structure,  
17 hoping that we could maybe do a better job of temperature  
18 management. This committee, after reviewing reservoir  
19 profiles of downstream river temperatures and some  
20 temperature modeling that has been done came to the  
21 conclusion that we should release from the low level outlet  
22 the coldest water that we could at all times, and since that  
23 time we have operated based on that criteria.

24 Bullards Bar normally has a substantial cold water  
25 pool. It is a deep reservoir. The dam is 645 feet high,

1 and so usually we have a substantial cold water pool to draw  
2 from.

3 MR. LILLY: Just for the record, the next overhead is  
4 Figure 1 from Exhibit S-YCWA-18.

5 MR. WILSON: This is a map that shows New Bullards Bar,  
6 various stems of the Yuba River.

7 Let me see if I can focus that a little bit.

8 Shows Englebright and the river downstream of that.

9 Water from New Bullards Bar is normally conveyed by  
10 tunnel approximately five miles to New Colgate Powerplant,  
11 which is a YCWA facility, and water that is discharged from  
12 New Colgate flows into the upper end of Englebright  
13 Reservoir, which is approximately ten miles long.  
14 Englebright is, besides the release from Colgate, is fed by  
15 both stems of the -- two additional stems of the Yuba River,  
16 the middle and the south flow into Englebright. These  
17 streams normally, especially in the summertime, are warmer  
18 waters than what is released from Colgate. And so the  
19 middle and south Yuba River water tends to stay to the top  
20 of Englebright and the colder Colgate releases tend to move  
21 to the bottom of Englebright.

22 MR. LILLY: The next overhead is Attachment 2 from  
23 Exhibit S-YCWA-11.

24 MR. WILSON: This overhead is a cross-section through  
25 the YCWA's Narrows 2 plant, which is located downstream of

1 Englebright Dam. It shows a cross-section through the  
2 intake in Englebright Reservoir. The tunnel conveying water  
3 to Narrows 2, which is a short distance downstream from  
4 Englebright. Englebright Reservoir has no level outlet. It  
5 was constructed as a debris barrier, and the only outlets  
6 out of Englebright are through the PG&E's Narrows 1  
7 hydroplant and Yuba County Water Agency's Narrows 2  
8 hydroplant.

9 The releases through Narrows 2, the YCWA facility, the  
10 temperatures of those waters tend to be about the equivalent  
11 of what the temperature is in Englebright Reservoir at about  
12 a depth of 35 feet, very slightly, but in general those  
13 correlate pretty closely.

14 With the coldest water possible being released from New  
15 Bullards Bar, the only possible temperature influenced by  
16 YCWA is by more releases from New Bullards Bar and  
17 Englebright. Due to the distances and generating schedule  
18 requirements, the two-day lead time would be needed for  
19 changing releases from New Bullards Bar to try and influence  
20 temperatures at Daguerre Point Dam, which is approximately  
21 26 miles downstream from Colgate and at Marysville gauge  
22 approximately 30 miles downstream.

23 To be able to attempt to control temperatures  
24 additionally, we would need to have an accurate two day  
25 ahead air temperature forecast. The reasons discussed in

1 detail in Mr. Grinnell's testimony, we urge that the State  
2 Water Resources Control Board not to adopt any temperature  
3 requirements.

4 MR. LILLY: Let's go forward to Section III of your  
5 testimony. If you can very briefly summarize the other  
6 operational considerations for this project.

7 MR. WILSON: Due to conditions uncontrolled by Yuba  
8 County Water Agency and the release time delays from New  
9 Bullards Bar to Marysville, extra buffer water is released  
10 to ensure compliance with flow requirements. We have found  
11 that to ensure compliance an additional two and a half  
12 percent plus five cfs is generally needed.

13 A five day running average with a 10-percent maximum  
14 deviation restriction for the flow requirements would save a  
15 considerable amount of water, particularly in drier years.

16 MR. LILLY: Next, Dr. House testified in detail  
17 yesterday about the effect of the draft order on the  
18 project's hydroelectric generation. Could you briefly  
19 summarize from your operations standpoint.

20 MR. WILSON: The Draft Order would have a severe  
21 negative impact on the Yuba River Development Project's  
22 ability to maximize generation revenues. These impacts are  
23 discussed in my written testimony. Between now and 2016 all  
24 lost generation revenues would directly impact Pacific Gas &  
25 Electric Company. After 2016 these millions of dollars a

1 year would impact Yuba County Water Agency.

2 MR. LILLY: Now go forward to Section V of your  
3 testimony. If you could please just briefly summarize and  
4 update your 1992 testimony regarding out-of-county water  
5 transfers and proposals for future transfers.

6 MR. WILSON: In my 1992 testimony I described YCWA's  
7 water transfers during 1987 through 1992 as a benefit that  
8 these transfers provided to water users throughout  
9 California. Since 1992, YCWA has participated in two more  
10 out-of-county transfers.

11 In early January 1997 there was serious flooding in  
12 much of California. However, thereafter there was little  
13 precipitation. As a result, there was need for YCWA water  
14 out of county to meet environmental commitments by others.  
15 20,000 acre-feet went to the Bureau of Reclamation to help  
16 the CVP's fish, wildlife, restoration purposes in the Lower  
17 American River and wildlife refuges in the San Joaquin  
18 Valley. 48,857 acre-feet went to the Sacramento Area Flood  
19 Control Agency to mitigate effects from flood reoperation at  
20 Folsom Reservoir on the American River.

21 Since 1992 several state and federal agencies and an  
22 NGO has identified the Yuba River Development Project as a  
23 source of water to help satisfy their needs. These programs  
24 are listed in Page 8 and 9 of my testimony.

25 Yuba County Water Agency will use its best efforts to

1 transfer to users downstream of the Lower Yuba River any  
2 water that must be released from storage in New Bullards Bar  
3 Reservoir to implement any supplemental instream  
4 requirements. Nevertheless, YCWA's ability to transfer any  
5 water required to implement supplemental instream flow  
6 requirements will be significantly constrained if such new  
7 requirements require YCWA to release water during times when  
8 such water cannot be diverted by downstream users or  
9 otherwise applied to beneficial use.

10 MR. LILLY: Let's go forward to Section VI of your  
11 testimony. If you could just summarize and update your 1992  
12 testimony regarding the Yuba County Water Agency's use of  
13 the funds from water transfers.

14 MR. WILSON: In 1992 I testified in detail about how  
15 YCWA's Board of Directors directed that all money received  
16 from water transfers be used for flood control, water supply  
17 and conservation and fishery enhancement projects in Yuba  
18 County. The water transfer funds YCWA has spent have all  
19 gone for the betterment of the community and not for the  
20 financial gain of individuals.

21 Since 1992 YCWA has continued to financially support  
22 these kind of activities with money received from water  
23 transfers. \$31.8 in expenditures, grants and loans have  
24 been made for these activities by YCWA. For flood control,  
25 9.7 million has been provided. Those are dollars.

1           For water supply and conservation, 21.1 million; and  
2 fishery enhancement monitoring and studies \$1,000,000.

3           The 9.7 million Yuba County Water Agency has provided  
4 in flood control expenditures includes the local nonfederal  
5 share of the \$33,000,000 project that restored 16.9 miles of  
6 Yuba and Feather River levees, and the nonfederal share of  
7 the cost of studies to support another 29 million in levee  
8 enhancement projects that have recently been authorized by  
9 Congress.

10           Due to the depressed economic conditions of Yuba  
11 County, these accomplishments and planned levee improvement  
12 projects, which costs total of 63 million would not have  
13 been constructed if YCWA had not received these water  
14 transfer funds.

15           The YCWA Board has also committed to fund additional  
16 flood control and water supply projects that are in various  
17 stages of planning and implementation. These projects are  
18 estimated to cost a total of 14.8 million. In recognition  
19 of the grave need for additional flood protection for the  
20 Yuba and the Feather Rivers, 70 million for the Yuba and  
21 Feather River flood control was included in Proposition 13,  
22 which we will be voting on today.

23           This is the Safe Drinking Water, Clean Water, Watershed  
24 Protection, Flood Protection Act. However, Prop 13 requires  
25 a local share which is currently 30 percent. So to be able

1 to use these \$70,000,000 from Prop 13, there must be a local  
2 match of \$30 million. Should Prop 13 pass, unless YCWA can  
3 partially fund the local share with funds from water  
4 transfers, I cannot see a way that the 70,000,000 could be  
5 used for its intended purpose, which is to provide a higher  
6 level of flood protection to save lives and reduce property  
7 loss in our area.

8 MR. LILLY: Could you just briefly summarize your  
9 testimony regarding the reoperation of New Bullards Bar Dam  
10 and Reservoir for additional flood control.

11 MR. WILSON: In my 1992 testimony I discussed the  
12 critical need for more flood control to reduce flooding in  
13 the Yuba and Feather Rivers. This need is further borne out  
14 by the disastrous 1997 flood that occurred after the 1992  
15 hearing. 16,000 acres of land and 850 homes were flooded.  
16 100,000 people were evacuated, which is the largest  
17 evacuation ever in California, and tragically involved three  
18 lives lost.

19 Some recent legislation and regulatory actions have  
20 eliminated several flood control options that would have  
21 provided a high level of flood protection at an affordable  
22 cost. One of the remaining options being considered is  
23 increased New Bullards Bar Dam flood release capacity with  
24 reoperation of New Bullards Bar Reservoir to provide larger  
25 flood pool reservation.

1           However, the draft order will most likely jeopardize  
2 this option. This is because it would be necessary to  
3 provide higher carryover storage to improve the chances of  
4 meeting the proposed instream flows. Attempting to meet the  
5 proposed temperature standards would even -- would require  
6 even higher carryover storage.

7           MR. LILLY: If you can briefly summarize your  
8 testimony regarding Yuba County economy.

9           MR. WILSON: In 1992 Yuba County Administrator Fred  
10 Morawczinski vividly testified about the extremely depressed  
11 social and economic conditions of Yuba County and the  
12 importance of reliable agricultural service deliveries to  
13 Yuba County's economy. These extremely poor economic  
14 conditions continue to exist today in Yuba County despite  
15 the recent economic boon that much of California has seen.

16           Yuba County's unemployment rate is still one of the  
17 highest in the state and the nation. At 15.6 percent  
18 unemployment, it is 2.2 times the state average. Yuba  
19 County's per capital ranks 53 out of 58 and at \$15,010 a  
20 year. Yuba County now dedicates 37.6 million for public  
21 assistance. The number of poor children in Yuba County  
22 ranks 55 out of 58, and the rate of children receiving  
23 temporary assistance for needy children is now the worst in  
24 the state.

25           Since 1992, Yuba County's agricultural economy has

1 increased surface water irrigation. This increase is due to  
2 the addition of new lands that are supplied by surface water  
3 irrigation and the increase water needs for rice straw  
4 decomposition because of restrictions on rice double  
5 burning.

6 Today Yuba County's economy remains highly dependent on  
7 agriculture jobs. These jobs are critical because there are  
8 few other employment options for this generally unskilled  
9 labor force.

10 As discussed in my written testimony, reduced YCWA  
11 surface water supplies would result in reduced employment  
12 opportunities, which would result in corresponding increases  
13 in welfare poverty and all the related social ills.

14 MR. LILLY: Finally, could you please summarize your  
15 conclusion from Page 17 of your testimony.

16 MR. WILSON: In conclusion, the proposed instream flow  
17 requirements in the Draft Decision would severely reduce  
18 YCWA's water supplies, directly causing substantial  
19 consumptive use deficiencies during droughts. If the  
20 proposed water temperature standards in the Draft Decision  
21 were adopted, then YCWA's customers would suffer even more  
22 consumptive use deficiencies, and these deficiencies would  
23 not be confined to drought years.

24 The Draft Decision would also seriously reduce YCWA's  
25 ability to flexibly operate the Yuba River Development

1 Project to maximize hydroelectric energy and water transfer  
2 revenues. As a result, YCWA would not be able to continue  
3 to fund fishery and water supply projects and flood control  
4 projects that Yuba County desperately needs.

5 There would be little hope for Yuba County to  
6 significantly improve its economy so it can share in the  
7 prosperity that most of California has enjoyed since 1992.  
8 Yuba County Water Agency urges, therefore, the State Water  
9 Resources Control Board to not adopt the Draft Decision and  
10 instead to adopt Yuba County Water Agency's proposed new  
11 instream flow requirements.

12 MR. LILLY: That concludes the summary of the oral  
13 testimony -- excuse me, the summary of the written testimony  
14 of Donn Wilson and he is now available for  
15 cross-examination.

16 H.O. BROWN: Thank you, Mr. Lilly.

17 Mr. Edmondson is not here, is he?

18 Mr. Gee.

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20 CROSS-EXAMINATION OF YUBA COUNTY WATER AGENCY

21 BY DEPARTMENT OF THE INTERIOR

22 BY MR. GEE

23 MR. GEE: Mr. Brown, Mr. Chairman, morning, Mr. Lilly.

24 First turn to Exhibit S-YCWA-11, which is your written  
25 testimony and Section II which begins on Page 2.

1           Mr. Wilson, Section II deals with the agency's ability  
2 to control Lower Yuba River water temperatures?

3           MR. WILSON: Yes.

4           MR. GEE: Could changes be made at Englebright to meet  
5 the Draft Decision temperature requirements?

6           MR. WILSON: Could you be a little more specific?

7           MR. GEE: Specifically, can physical changes via  
8 temperature control device.

9           MR. WILSON: Could you restate your question with that  
10 clarification, please?

11          MR. GEE: Could changes such as a temperature control  
12 device be made at Englebright to meet the Draft Decision  
13 temperature requirements?

14          MR. WILSON: Probably not at all times.

15          Clarification, the temperature control device could be  
16 put in which would improve the chances but there is no  
17 assurance that even with that that they could be met at all  
18 times.

19          MR. GEE: Was there a study made to that effect or is  
20 this purely your own opinion?

21          MR. WILSON: There were studies made that estimated the  
22 ability to reduce temperatures with a temperature control or  
23 temperature influencing device, and with the subsequent  
24 studies that have been done in regard to ability to meet the  
25 Draft Decision temperatures, my take on that after looking

1 at all this data is that there still would probably be times  
2 that those temperature requirements could not be met.

3 MR. GEE: Were the studies made a part of the evidence  
4 of the agency?

5 MR. WILSON: No. These were my own, back of the  
6 envelope looks into that.

7 MR. GEE: Isn't it true that Narrows 1 Powerhouse can  
8 draw water from lower areas in Englebright Reservoir?

9 MR. WILSON: The intake configuration is different  
10 where the Narrows 2 intake samples from the whole profile.  
11 It's approximately an 80-foot tall structure, and it samples  
12 from that profile where the PG&E's Narrows 1 intake is at  
13 approximately the same level as the lowest level on the  
14 Narrows 1.

15 So you would be drawing from where our Narrows 2 intake  
16 averages about 35 feet in depth, you would probably -- for  
17 the temperature equivalent with the Narrows 1 you would be  
18 drawing deeper, but still not into the real cold water  
19 pool.

20 MR. GEE: When you say "deeper," to the depth of  
21 perhaps 80 feet or --

22 MR. WILSON: With full reservoir, the intake is  
23 approximately 80 feet down. Due to the hydraulics I would  
24 guess you would end up with a temperature equivalent of  
25 somewhere around 50 feet.

1           MR. GEE: Isn't it true that Narrows 1 is cooler than  
2 the water released by Narrows 2?

3           MR. WILSON: Generally, that is true. That is up until  
4 you deplete the cold water pool.

5           MR. GEE: About two weeks ago Mr. Grinnell testified as  
6 to the historical diversions out of Yuba County. Do you  
7 recall that testimony?

8           MR. WILSON: I recall Mr. Grinnell's testimony. That  
9 specific reference I am not totally up to speed on.

10          MR. GEE: I will refer you to the specific portions.  
11 Specifically it is Slide 8 of Exhibit 25 of the water  
12 agency. I will allow Mr. Lilly to bring that exhibit up.

13          MR. LILLY: It would probably help if you can cite to  
14 the actual report. I didn't bring the slides. We just have  
15 the report. I think those are cited at the bottom of each  
16 slide.

17          MR. GEE: YCWA-15, Table 10.

18          MR. WILSON: Yes.

19          MR. GEE: Do you have that chart in front of you?

20          MR. WILSON: This is Table 19, Page 11.

21          MR. GEE: That's correct.

22          MR. WILSON: Yes.

23          MR. LILLY: Mr. Brown, I just request Mr. Gee clarify.  
24 Yesterday we did submit Exhibit S-YCWA-15A, which had the  
25 changes in those numbers which had been brought out by Mr.

1 Frink's questioning, and Mr. Grinnell ran those. We  
2 submitted 15A yesterday. I need clarification whether he  
3 wants the witness to refer to the old Page 11 or the new  
4 Page 11.

5 H.O. BROWN: Mr. Gee.

6 MR. GEE: New page 11. My question is general. So,  
7 isn't it true that historical diversions for 1987 include  
8 water that was transferred out of the project?

9 MR. WILSON: Not to my knowledge.

10 MR. GEE: Does the historical diversion for 1988  
11 include water sold or transferred outside of the project?

12 MR. WILSON: I don't believe so.

13 MR. GEE: Does the historical diversion for 1989  
14 include water sold or transferred by Yuba County Water  
15 Agency outside the project?

16 MR. WILSON: No.

17 MR. GEE: Does the historical diversion for 1990  
18 include water sold or transferred by Yuba County Water  
19 Agency outside the project?

20 MR. WILSON: No.

21 MR. GEE: Does the historical diversion for 1991  
22 include water sold or transferred by Yuba County Water  
23 Agency outside the project?

24 MR. WILSON: In 1991 there was a groundwater exchange.  
25 The figure that is shown here is the water total that was

1 applied, diverted, should have been diverted for that  
2 year. There was 82,000 in lieu of water, 82,000 1800  
3 [verbatim] acre-feet, in lieu of that was pumped by the  
4 local districts. And they then gave up that amount,  
5 equivalent amount, of surface water which then flowed down  
6 the stream.

7 MR. GEE: Does the historical diversion for 1997  
8 include water sold or transferred by Yuba County Water  
9 Agency outside the project?

10 MR. WILSON: 1997?

11 MR. GEE: That's correct.

12 MR. WILSON: No.

13 MR. FRINK: Excuse me, Mr. Brown.

14 H.O. BROWN: Mr. Frink.

15 MR. FRINK: Just to clarify. I notice it looked like  
16 Mr. Gee was looking at the former version of S-YCWA, Exhibit  
17 15, and I believe, Mr. Wilson, you were referring to the  
18 numbers in the revised version?

19 MR. WILSON: That's correct. And the previous version  
20 did not include any transfer water, either. There was  
21 computer error in the spreadsheet, and it ended up with some  
22 erroneous numbers which have been corrected, but none of  
23 those numbers included transferred water.

24 MR. FRINK: Thank you.

25 H.O. BROWN: Thank you, Mr. Frink.

1           MR. GEE: Mr. Wilson, Section V of your written  
2 testimony that deals with recent water transfers and  
3 proposals for water transfers; is that correct?

4           MR. WILSON: I have that.

5           MR. GEE: On Page 9, the first sentence of the very  
6 last paragraph, it states that Yuba County Water Agency  
7 declared its intent to retain dominion and control over all  
8 water that is released from the project to supplement  
9 instream flows in the Lower Yuba River; is that correct?

10          MR. WILSON: That's correct.

11          MR. GEE: Are you suggesting that the agency presently  
12 has dominion and control over all water that is released  
13 from the project to supplement existing instream flows?

14          MR. WILSON: Could you repeat the question, please?

15          MR. GEE: Are you suggesting by that statement that the  
16 agency presently has dominion and control over all waters  
17 that is released from the project to supplement existing  
18 instream flows?

19          MR. WILSON: Or the current required instream fish  
20 stream requirements, no.

21          MR. GEE: What facilities in the project below  
22 Englebright are able to control the river flow?

23          MR. WILSON: There is an influence by Daguerre Point  
24 Dam.

25          MR. GEE: Can you describe that influence?

1           MR. WILSON:  It -- there is a minimal storage at that  
2 point and that allows a higher elevation to the river at  
3 that point.

4           MR. GEE:  Was Daguerre constructed as a storage dam?

5           MR. WILSON:  Yes.

6           MR. GEE:  It was?

7           MR. WILSON:  Not water storage dam, but it was  
8 designed as a storage dam.

9           MR. GEE:  What is the last diversion point along --

10          H.O. BROWN:  Clarification question, Mr. Gee.

11          Designed for storage for silt or water?

12          MR. WILSON:  It was designed as a debris barrier.

13          H.O. BROWN:  Thank you.

14          MR. GEE:  What is the last diversion point along the  
15 Yuba River before water flows out of the project?

16          MR. WILSON:  The last pump I am aware of is at -- just  
17 downstream from Simpson Lane Bridge which is approximately a  
18 mile and a half to the confluence of the Feather, upstream.

19          MR. GEE:  Can you explain how Yuba County Water Agency  
20 exercises dominion and control over water that is released  
21 to satisfy or supplement instream flow after the water  
22 leaves the project?

23          MR. LILLY:  Excuse me, I am going to object to the  
24 extent it calls for a legal conclusion.  I know your  
25 standard ruling that to the extent the witness has knowledge

1 he can answer. I am going to object because this is really  
2 getting into a legal conclusion that is largely beyond Mr.  
3 Wilson's expertise.

4 H.O. BROWN: Thank you, Mr. Lilly.  
5 Mr. Gee.

6 MR. GEE: I was not asking Mr. Wilson for a legal  
7 opinion. As I understand his qualifications, he is an  
8 operations person and this is an operations question.

9 H.O. BROWN: Answer the question, Mr. Wilson, if you  
10 know the answer.

11 MR. WILSON: This is a requirement that we currently do  
12 not have. It would be an added requirement, and it would be  
13 an additional requirement to our existing project. And so,  
14 with that we felt that he we should be able to retain  
15 control of that water.

16 MR. GEE: Are you saying at the present --

17 MR. WILSON: Excuse me, could you repeat please?

18 MR. GEE: Does the agency have the ability to exert  
19 dominion and control over water which flows out of the  
20 project?

21 MR. WILSON: When you say "ability," I am not quite  
22 sure what you mean.

23 MR. GEE: For operations of the project?

24 MR. WILSON: If we hadn't released it, we would have  
25 retained control of it.

1           MR. GEE:  Otherwise you don't have dominion and  
2 control; is that what you are saying?

3           MR. WILSON:  In my understanding of, you know, if we  
4 didn't have to release it.  We would have control of it.  In  
5 the process of releasing it, that is a controlled action  
6 that we have made.

7           MR. GEE:  Once the water is released and it flows out  
8 of the project, does the agency have the ability to control  
9 water?

10          MR. WILSON:  We can't stop somebody from diverting it.  
11 We don't have water cops.

12          MR. GEE:  So the water that flows out of the project is  
13 ultimately part of Yuba County Water Agency supply that is  
14 available to all right holders according to priority?

15          MR. LILLY:  Mr. Brown.

16          H.O. BROWN:  Mr. Lilly.

17          MR. LILLY:  I object the question is vague as to time  
18 and conditions.  It is not clear whether Mr. Gee is  
19 referring to water released during past water transfers  
20 where there clearly have been State Water Resources Control  
21 Board orders or other circumstances.  And I think the answer  
22 to his question will depend on those circumstances.

23          H.O. BROWN:  Thank you, Mr. Lilly.

24          Mr. Gee, I am having trouble following which way you  
25 are headed on this, also.  Perhaps you could clarify.

1           MR. GEE: My question goes to the written testimony by  
2 Mr. Wilson, on Page 9, the first sentence. And is the  
3 water agency's assertion that it has the ability to exert  
4 dominion and control over all water that is released from  
5 the project.

6           I am exploring how that statement -- just the basis of  
7 that statement, the ability to exert certain dominion and  
8 control.

9           H.O. BROWN: Mr. Lilly.

10          MR. LILLY: I object. It's -- Mr. Gee has misstated  
11 that. It says it declared, the agency declared its intent  
12 to retain control, and I think that is different than what  
13 Mr. Gee just said. Again, they are legal issues. But if he  
14 is going to summarize the testimony he needs to do it  
15 accurately.

16          H.O. BROWN: Mr. Gee.

17          MR. GEE: Mr. Lilly is characterizing my question. If  
18 I clarify more clearly. The very word says intent to retain  
19 means that it has the ability to presently, if I understand  
20 the word retain.

21          H.O. BROWN: Are you talking about retaining control  
22 before it is released or control after it is released?

23          MR. GEE: After it is released.

24          MR. WILSON: Through -- in the water transfers that we  
25 have undertaken, the State Board has -- on each of these we

1 have gone to the State Board and received a permit to do  
2 this. In doing so, it was our understanding then that water  
3 that we released for that purpose would go to the intended  
4 users. And in doing this we would intend to do the same.

5 MR. GEE: I understand that.

6 H.O. BROWN: Just a moment. Let the record show that  
7 we have been joined by Mary Jane Forster, Board Member.

8 Welcome, Ms. Forster.

9 MS. FORSTER: Thank you.

10 MR. GEE: My question goes to the water that is  
11 released to meet -- for supplemental instream flow  
12 requirements?

13 MR. WILSON: Correct.

14 MR. GEE: Once the water flows out of the project,  
15 operationally, how does the agency exert dominion and  
16 control over that water?

17 MR. WILSON: We would anticipate that we would have a  
18 permit from the State Board to transfer this water to the  
19 specified party.

20 MR. GEE: Absent that permit or transfer right, how far  
21 does it control the water once it flows out of the project?

22 MR. WILSON: My feeling on this is that since this is a  
23 new requirement above what we currently have, we should have  
24 the ability to the degree possible to put this to beneficial  
25 use.

1           MR. GEE: Does the water agency intend to comply with  
2 those sections of the Water Code for its proposed water  
3 transfers?

4           MR. LILLY: Excuse me, I am going to object. Those  
5 sections of the Water Code is ambiguous.

6           H.O. BROWN: Mr. Gee.

7           MR. GEE: I will rephrase the question.

8           H.O. BROWN: Objection sustained.

9           MR. GEE: Does Yuba County Water Agency intend to  
10 comply with the no injury rule in the Water Code regarding  
11 those transfers?

12           MR. LILLY: We can keep going forever, Mr. Brown. I am  
13 going to have to continue to object to the extent these  
14 questions call for legal conclusions, which that question  
15 clearly does.

16           H.O. BROWN: Mr. Gee, maybe you can qualify your  
17 question, if you are asking for a nonlegal opinion or his  
18 opinion as general manager.

19           MR. GEE: I am asking for his opinion as a general  
20 manager.

21           MR. WILSON: As in all our activities, we comply with  
22 all rules, regulations, orders, directions.

23           MR. GEE: In compliance with the no injury rule, does  
24 Yuba County Water Agency intend to enter into refill  
25 agreements with either the Central Valley Project or the

1 State Water project for agency's proposed transfers?

2 MR. WILSON: Excuse me, you were speaking quite  
3 rapidly, and I missed about three words. Could you repeat  
4 that, please?

5 MR. GEE: I will. I apologize.

6 In compliance with the no injury rule, does Yuba County  
7 Water Agency intend to enter into refill agreements with  
8 either the CVP or SWP for proposed transfers?

9 MR. WILSON: In regard to additional instream flow  
10 requirements above what we currently have, probably not.

11 MR. GEE: At presently does Yuba County Water Agency  
12 have any responsibility for Bay-Delta standards?

13 MR. WILSON: We currently do not. We are party to  
14 Phase VIII.

15 MR. GEE: Mr. Lilly, Mr. Wilson, thank you.

16 H.O. BROWN: Thank you, Mr. Gee.

17 Mr. Baiocchi.

18 ----oOo----

19 CROSS-EXAMINATION OF YUBA COUNTY WATER AGENCY

20 BY CALIFORNIA SPORTFISHING PROTECTION ALLIANCE

21 BY MR. BAIOCCHI

22 MR. BAIOCCHI: Good morning, Members of the Board.  
23 Good morning, staff, and good morning, Mr. Wilson, and also,  
24 Mr. Lilly.

25 MR. WILSON: Morning, Bob.

1           MR. BAIOCCHI: I have an array of questions and I would  
2 appreciate if I can get them answered.

3           Thank you.

4           Let's start off with, you are familiar with Yuba County  
5 Water Agency's water rights?

6           MR. WILSON: In general.

7           MR. BAIOCCHI: And generally speaking, Yuba County  
8 Water Agency has been in full compliance with the terms and  
9 conditions of the water rights permits. Would that be true?

10          MR. WILSON: Not always.

11          MR. BAIOCCHI: Thank you.

12          And let's go to your testimony on Page 2, please. It  
13 is the second paragraph; I wonder if you can read it into  
14 the record, the second sentence till the completion of the  
15 paragraph, commencing with "Water," please.

16          MR. WILSON: Water from the Middle and South Yuba  
17 Rivers, which is generally considerably  
18 warmer than the Colgate discharge, also flows  
19 into Englebright Reservoir. The colder New  
20 Bullards Bar water tends to flow to the  
21 bottom of Englebright Reservoir and the warmer  
22 Middle South Yuba water tends to stay to the  
23 top of the reservoir.                   (Reading.)

24          MR. BAIOCCHI: You are familiar with the Yuba County  
25 Water Agency's powerhouse dam and diversion located on the

1 Middle Yuba?

2 MR. WILSON: Correct.

3 MR. BAIOCCHI: And you are also familiar with the Log  
4 Cabin diversion which is located on Oregon Creek?

5 MR. WILSON: Correct.

6 MR. BAIOCCHI: Oregon Creek is a tributary to the  
7 Middle Yuba?

8 MR. WILSON: Correct.

9 MR. BAIOCCHI: Thank you.

10 Mr. Brown, what I can do, it is up to you if you want  
11 to save time, I have done a collective collection of  
12 information from the State Water Resource Control Board  
13 records. I can go application by application, but I have  
14 put them together collectively. If Mr. Lilly objects, then  
15 I will go through the applications.

16 The water rights applications that I am looking at is  
17 the Middle Yuba, and Oregon Creek. That will be -- so which  
18 way do you want me to go? I will make a statement and see  
19 where Mr. Lilly wants to go.

20 H.O. BROWN: That will be best, Mr. Baiocchi.

21 MR. BAIOCCHI: Thank you.

22 Collectively, based on State Water Resources Control  
23 Board records, does Yuba County have storage rights of  
24 671,300 acre-feet to Middle Yuba water?

25 H.O. BROWN: Mr. Lilly.

1           MR. LILLY: Mr. Brown, I realize there is some latitude  
2           on cross-examination here. But I have a concern that this  
3           line of questioning, number one, does not appear to have  
4           anything new since the 1992 hearing; and, number two, does  
5           not seem to directly relate to Mr. Wilson, certainly not to  
6           his written testimony.

7           If Mr. Baiocchi wants to submit copies of documents  
8           from the State Board files, those are already in the record.  
9           He can submit them, but we may take a lot of time on  
10          something that is not appropriate for this hearing.

11          H.O. BROWN: Mr. Baiocchi, this is your time to use it  
12          within certain rules as you see fit, I am going to grant you  
13          a lot of latitude or you might explain where you are  
14          headed.

15          MR. BAIOCCHI: May I explain?

16          To begin with, the Middle Yuba was not addressed. This  
17          is new information, not addressed at the last hearing. I  
18          attended all the days here.

19          Number two, Mr. Wilson opened the door concerning  
20          Middle Yuba and the warming of water. Thirdly, I am trying  
21          to build a foundation to show how much water Yuba County  
22          Water Agency diverts out of the Middle Yuba in relationship  
23          to water temperatures.

24          H.O. BROWN: Thank you.

25          MR. BAIOCCHI: That is where I am going.

1           H.O. BROWN: Thank you, Mr. Baiocchi. I will allow the  
2 question.

3           If you know the answer, Mr. Wilson.

4           MR. WILSON: Can you repeat the question, please?

5           MR. BAIOCCHI: First question, to the best of your  
6 knowledge, do you believe that Yuba County Water Agency has  
7 storage right to 671,300 acre-feet?

8           MR. WILSON: Don't recall that figure. There is a  
9 number, but I don't recall the number.

10          MR. BAIOCCHI: Do you recall if the storage season is  
11 from October 1 to June 30th, generally speaking?

12          MR. WILSON: There is a season. That sounds close to  
13 what I remember.

14          MR. BAIOCCHI: Isn't it true that Yuba County Water  
15 Agency has direct diversion rights from the Middle Yuba,  
16 which would include Oregon Creek for 3,510 cubic feet per  
17 second?

18          MR. WILSON: The number -- as I indicated before, there  
19 is a quantity, but I don't remember what the number is.

20          MR. BAIOCCHI: Thank you.

21          Are you aware that one of the applications, which I can  
22 give you the number, there is a direct diversion of 1,800  
23 second feet year-round?

24          MR. WILSON: There is an application for a diversion;  
25 the number I don't remember.

1 MR. BAIOCCHI: Thank you.

2 You have made statements concerning warming of Yuba  
3 River water as it relates to the Middle and South Yuba. Now  
4 I am going to ask you a question. Considering the amount of  
5 water being diverted from the Middle Yuba by Yuba County  
6 Water Agency is there a potential that Yuba County Water  
7 Agency's water diversions from the Middle Yuba may be the  
8 cause of warm water flowing into Englebright Reservoir?

9 MR. WILSON: If so, very minimal.

10 MR. BAIOCCHI: To the best of your knowledge, do you  
11 know if there are daily water temperature devices above the  
12 Hour House Dam?

13 MR. WILSON: There are not daily. I have personally  
14 taken some grab samples periodically out of my interest in  
15 what the temperatures were.

16 MR. BAIOCCHI: Are there water temperature monitoring  
17 devices below Hour House Dam, downstream?

18 MR. WILSON: Can you specify how far downstream? There  
19 are as you get further down on the system technically, yes.

20 MR. BAIOCCHI: There are water temperature monitoring  
21 devices downstream full time? I am talking about full-time  
22 devices.

23 MR. WILSON: Yes.

24 MR. BAIOCCHI: Is there a water temperature monitoring  
25 device located below the confluence of Oregon Creek and

1 Middle Yuba before it enters the Yuba?

2 MR. WILSON: Not before it enters the Yuba.

3 MR. BAIOCCHI: I am going to ask you a second  
4 question. Would Yuba County Water Agency be agreeable to  
5 installing and maintaining full-time water temperature  
6 measuring devices above Hour House Dam on the Middle Yuba,  
7 above Cabin -- below Cabin diversion dam on Oregon Creek and  
8 below the confluence of Oregon Creek with the Middle Yuba to  
9 determine the effects to the water temperatures and cold  
10 water resulting from the Yuba County Water Agency's  
11 diversion from the Middle Yuba?

12 MR. WILSON: Yes.

13 MR. BAIOCCHI: Very good. We go on to another one  
14 here.

15 There is a mandatory flow requirement from New Bullards  
16 Bar of five feet per second; is that correct?

17 MR. WILSON: Correct.

18 MR. BAIOCCHI: Not a trick question.

19 MR. WILSON: Trying to make sure that I fully  
20 understand.

21 MR. BAIOCCHI: Is there a release valve that allows  
22 that five second feet to enter the North Yuba below the  
23 dam?

24 MR. WILSON: Yes.

25 MR. BAIOCCHI: Do you know what the capacity of that

1 valve would be?

2 MR. WILSON: The one we use for current releases is 10  
3 cfs?

4 MR. BAIOCCHI: Is that at the maximum?

5 MR. WILSON: That is approximate.

6 MR. BAIOCCHI: I want to go to the dead storage matter  
7 that was addressed in various Yuba County Water Agency's  
8 exhibits, whereby there is a dead storage at 234,000  
9 acre-feet of water?

10 MR. WILSON: Correct.

11 MR. BAIOCCHI: That is unusable storage; isn't that  
12 correct?

13 MR. WILSON: Yes.

14 MR. BAIOCCHI: Thank you.

15 Now, if you wanted to discharge using all of your  
16 capacity on Bullards Bar Dam, power conduits, the release  
17 valve, what would be the maximum amount of water that you  
18 could discharge from New Bullards Bar Reservoir? Ballpark  
19 would be fine.

20 MR. WILSON: Depending on head in the reservoir and  
21 assuming you are not referring to the floodgates, about  
22 5,905 cfs.

23 MR. BAIOCCHI: So, we will just ballpark it at 5,900.  
24 Acre-feet we will ballpark it at 11,000 acre-feet. Is that  
25 fair?

1 MR. WILSON: That is a little high, but it is close.

2 MR. BAIOCCHI: Now in the event there was a dam failure  
3 in New Bullards Bar Dam, and in order for Yuba County Water  
4 Agency to protect public safety and private and public  
5 property downstream, isn't it true that the only capability  
6 you have is to release 11,800 acre-feet?

7 MR. WILSON: Depending on the time of year and what the  
8 reservoir elevation is.

9 MR. BAIOCCHI: What would be maximum amount?

10 MR. WILSON: 160,595.

11 MR. BAIOCCHI: You could discharge 165,000?

12 MR. WILSON: No, 169- -- yeah.

13 MR. BAIOCCHI: By what sources?

14 MR. WILSON: This is if the reservoir is full.

15 MR. BAIOCCHI: What if the reservoir is at 700,000  
16 acre-feet?

17 MR. WILSON: Probably about 5,800.

18 MR. BAIOCCHI: If it is 11,800 and you are sitting on  
19 600,000 acre-feet of water and you had to get rid of that  
20 water extremely fast, and if there was a dam failure --

21 MR. WILSON: If there was a dam failure, we wouldn't  
22 have to worry about letting the water out.

23 MR. BAIOCCHI: The point is what you want to do. Okay.  
24 Release as much water as possible before the dam failed in  
25 the event it was failing?

1 MR. WILSON: Absolutely.

2 MR. BAIOCCHI: Thank you.

3 Is there a river outlet valve on the bottom of New  
4 Bullards Bar similar to Department of Water Resources  
5 Oroville Dam?

6 MR. WILSON: There is a valve, but it is not similar to  
7 DWR's.

8 MR. BAIOCCHI: Pardon me.

9 MR. WILSON: There is a sluice valve, but it is not  
10 similar, the same type valve as DWR's.

11 MR. BAIOCCHI: Can it be opened?

12 MR. WILSON: Yes. And that is included in the  
13 quantities I gave you.

14 MR. BAIOCCHI: That is included in the quantities?

15 MR. WILSON: Yes.

16 MR. BAIOCCHI: So, theoretically if you wanted to get  
17 to the dead pool, 234,000 acre-feet of dead pool, you  
18 couldn't do it through the outlet. Could you do it through  
19 that sluice valve that you indicated?

20 MR. WILSON: You could get some water from there. You  
21 can -- at the dead pool you can still release water through  
22 the power tunnel to some degree.

23 MR. BAIOCCHI: Do you recall a complaint that was  
24 filed by the California Sportfishing Protection Alliance  
25 against Yuba County Water Agency for failure to comply with

1 the terms and conditions of the 1965 Department of Fish and  
2 Game Yuba County Water Agency agreement?

3 MR. WILSON: Yeah. This was discussed in the '92  
4 hearings, I think, at some length.

5 MR. BAIOCCHI: You recall that?

6 MR. WILSON: I don't remember the details, specifics,  
7 but I remember it was a complaint and I know some of the  
8 generalities of it.

9 MR. BAIOCCHI: Thank you.

10 You have been in full compliance with the terms and  
11 conditions of the -- with respect to flows in that '65  
12 agreement?

13 MR. WILSON: For what period?

14 MR. BAIOCCHI: Since the hearing in 1992.

15 MR. WILSON: Yes.

16 MR. BAIOCCHI: Thank you.

17 Has Yuba County Water Agency put all of the water in  
18 Yuba County Water Agency's water rights applications,  
19 permits and licenses to full beneficial use since the Yuba  
20 River Development Project became operational?

21 MR. WILSON: No.

22 MR. BAIOCCHI: Please explain why.

23 MR. WILSON: We are still developing distribution  
24 systems, and there is anticipated growth that has not yet  
25 occurred.

1           MR. BAIOCCHI: Is Yuba County Water Agency proposing  
2 new dams on the Yuba?

3           MR. WILSON: We are not proposing any. We have  
4 studied a number of options.

5           MR. BAIOCCHI: What were the conclusions of the study?

6           MR. WILSON: I don't think we have enough time left in  
7 the hearing to cover that. If you can be specific, I will  
8 try to answer.

9           MR. BAIOCCHI: Are the dams feasible or nonfeasible?

10          MR. WILSON: If you can specify which ones; a number of  
11 them are. Some of them aren't.

12          MR. BAIOCCHI: You are still looking into proposing new  
13 dams on the Yuba?

14          MR. WILSON: We are not proposing any dams on the Yuba.  
15 We are continuing to look at ways we can provide the flood  
16 protection that we need to save the lives of half the people  
17 in Yuba County.

18          MR. BAIOCCHI: Thank you.

19                 Getting there, Mr. Brown.

20                 I raised some questions with Mr. House yesterday and  
21 they advised me to question you on this.

22          MR. WILSON: Okay.

23          MR. BAIOCCHI: Does Yuba County Water Agency receive  
24 \$8,000,000 a year from PG&E for the production of energy  
25 produced at the Yuba River Development Project regardless of

1 the power produced at the project?

2 MR. WILSON: No. I think I know the intent of your  
3 question, but I want to make sure that I am answering  
4 accurately. We receive more than \$8,000,000.

5 MR. BAIOCCHI: What amount would that be?

6 MR. WILSON: It varies from year to year.

7 MR. BAIOCCHI: Is it double? Is it 16 million?

8 MR. WILSON: It is generally in the \$11,000,000 range.

9 MR. BAIOCCHI: Thank you.

10 In the event of PG&E's Narrows project goes before the  
11 PUC for bidding, does Yuba County Water Agency propose to  
12 bid for the project?

13 MR. WILSON: That decision hasn't been made.

14 MR. BAIOCCHI: It is my understanding -- Mr. Lilly, you  
15 are not a witness, but it is my understanding under Yuba  
16 County Water Agency's -27 that was submitted yesterday, that  
17 Mr. Wilson would be subject to cross-examination on it. It  
18 is entitled Yuba County Water Agency 1987 Irrigation Season  
19 Surface Water and Flows through 1999.

20 MR. WILSON: Okay.

21 MR. BAIOCCHI: I can ask questions; that fair?

22 MR. LILLY: Mr. Brown, I don't want to be rude. You  
23 told us in the past we are not supposed to talk back and  
24 forth. You want all questions to go through you, so I am  
25 trying to follow your prior instructions. Also trying not

1 to be rude.

2 H.O. BROWN: You are doing just fine, Mr. Lilly; that  
3 is exactly what I want.

4 If you have a question on that, Mr. Baiocchi, you can  
5 address it to me. Then I will --

6 You go ahead ask the witness any question. If there is  
7 an objection, I am sure Mr. Lilly will not be bashful.

8 MR. BAIOCCHI: Thank you very much, Mr. Brown.

9 Now in the -- under Yuba County Water Agency's Exhibit  
10 27, Irrigation Season Flows from 1987 through 1999, as I  
11 indicated, I noticed for a number of water years you do have  
12 the amount of water pumped and then for number of water  
13 years you do not have the number, the amount, of water  
14 pumped. I am just raising that question.

15 MR. WILSON: Where it shows water pumped, this is where  
16 the districts pumped groundwater for a portion of their use  
17 and gave up their surface water deliveries so that could  
18 help others in other parts of the state that had need for  
19 water.

20 MR. BAIOCCHI: Can we go to water year 1991, please?

21 MR. WILSON: That was -- okay.

22 MR. BAIOCCHI: The pages are --

23 MR. WILSON: I found it.

24 MR. BAIOCCHI: I am in the dark, so I wonder if you can  
25 clarify something. For that water year, you sold water to

1 the state water bank, 99,200 acre-feet?

2 MR. WILSON: I don't have that figure in front of  
3 me. I can probably find it.

4 MR. BAIOCCHI: Let me help you, please. Please go to  
5 Page 8 of Yuba County Water Agency Exhibit 13, the Bookman  
6 report. There is a chart there that shows all the water.

7 MR. WILSON: Correct.

8 MR. BAIOCCHI: For 1991 it says, shows state water bank  
9 99,200?

10 MR. WILSON: Correct.

11 MR. BAIOCCHI: Then it shows state water bank,  
12 California Department of Fish and Game 28,000?

13 MR. WILSON: Correct.

14 MR. BAIOCCHI: It shows City of Napa 7,500 acre-feet?

15 MR. WILSON: Correct.

16 MR. BAIOCCHI: I come up with 134,700 acre-feet for the  
17 1991 water year?

18 MR. WILSON: Correct.

19 MR. BAIOCCHI: This shows that 82,018 acre-feet of  
20 water was pumped?

21 MR. WILSON: Correct.

22 MR. BAIOCCHI: What about the other 52,682 acre-feet?  
23 Where did that water come from?

24 MR. WILSON: New Bullards Bar.

25 MR. BAIOCCHI: So there is water in Bullards Bar that

1 hasn't been put to beneficial use over the years?

2 MR. WILSON: In transferring it to others in the state  
3 that had dire need of water, we considered that, putting  
4 that to beneficial use.

5 MR. BAIOCCHI: Prior to -- let's go back to Page 8.  
6 You commenced the water transfers in 1987 to the Department  
7 of Water Resources, 83,100. I realize that that is when you  
8 came on board as the Engineer Administrator.

9 MR. WILSON: Correct.

10 MR. BAIOCCHI: To the best of your knowledge, from 1970  
11 to 1986, we'll say, were there any water transfers?

12 MR. WILSON: A few small ones.

13 MR. BAIOCCHI: Would it be a fair statement to say  
14 between the period 1970 to 1986 Yuba County Water Agency did  
15 not put the water, all of the water, in New Bullards Bar  
16 Reservoir to full beneficial use?

17 MR. WILSON: If you include fishery enhancement as  
18 beneficial use, yes.

19 MR. BAIOCCHI: I am glad that you brought that up. I  
20 have one more question.

21 Based -- to the best of your knowledge, based on water  
22 rights that you have on the North Yuba River, okay, and the  
23 amount of storage and direct diversion rights and all that  
24 there, do all of the water right permits, licenses and  
25 applications so state that the water is to be used for fish,

1 fishery protection, and enhancements?

2 MR. WILSON: I am not sure that all of them do.

3 MR. BAIOCCHI: But some of them do?

4 MR. WILSON: I believe so. I wouldn't swear my life on  
5 it, but I think I recall it.

6 MR. BAIOCCHI: If I told you that they all do, would  
7 that be sufficient?

8 MR. WILSON: Not really.

9 MR. BAIOCCHI: I can go over each application. Mr.  
10 Brown, what I will do to save time, that is going to be part  
11 of CSPA's closing statement and I'll so identify all the  
12 application numbers and all that there so staff can review  
13 it.

14 I appreciate your time and your interest, and thank  
15 you.

16 H.O. BROWN: Thank you, Mr. Baiocchi.

17 Mr. Sanders.

18 ----oOo----

19 CROSS-EXAMINATION OF YUBA COUNTY WATER AGENCY

20 BY SOUTH YUBA RIVER CITIZENS LEAGUE

21 BY MR. SANDERS

22 MR. SANDERS: Good morning, Mr. Wilson.

23 MR. WILSON: Morning, Larry.

24 MR. SANDERS: Yuba County Water Agency is a public  
25 agency; isn't that correct?

1 MR. WILSON: That's correct.

2 MR. SANDERS: It is not a business?

3 MR. WILSON: We are a public entity that operates in a  
4 businesslike manner.

5 MR. SANDERS: Does Yuba County Water Agency currently  
6 operate its project to maximize hydroelectric revenues?

7 MR. WILSON: The hydro-dispatch from the project is  
8 done by Pacific Gas & Electric Company.

9 MR. SANDERS: Is it Yuba County Water Agency's  
10 statutory mission to maximize revenues?

11 MR. WILSON: No.

12 MR. SANDERS: In fact, Yuba County Water Agency's  
13 primary mission is flood control; is that correct?

14 MR. WILSON: The two primary charges to Yuba County  
15 Water Agency in the Yuba County Water Agency Act is to  
16 provide flood protection to the area and a reliable water  
17 supply.

18 MR. SANDERS: Does the agency also provide other public  
19 benefits?

20 MR. WILSON: In the course of operation of the Yuba  
21 River Development Project there are recreation facilities.

22 MR. SANDERS: Okay. I am going to refer to Page 3 of  
23 your testimony. In the last paragraph on Page 3 you  
24 discussed the intake modification project.

25 What are the predicted benefits of this project?

1           MR. WILSON: It is anticipated that it would be between  
2 two and seven degrees temperature reduction capability.

3           MR. SANDERS: And the water agency -- can you tell me  
4 what phase of development the project is currently in?

5           MR. WILSON: We have completed the preliminary design.  
6 We have -- we are working on an agreement with Department of  
7 Water Resources for partial funding on the project. We have  
8 two consultants working on permitting issues. And the final  
9 design, construction plans and specks, are in preparation.

10          MR. SANDERS: Do you have any projection for how long  
11 till implementation?

12          MR. WILSON: If you can tell me how long it would take  
13 to get the permits, I could give you a number. It is  
14 anywhere from a year and a half to ten years.

15          MR. SANDERS: Okay.

16          On Paragraph 3 you state Yuba County Water Agency's  
17 ability to reduce water temperatures are limited and  
18 probably couldn't meet the Draft Decision; is that correct?  
19 The first sentence in Paragraph 3.

20          MR. WILSON: Correct.

21          MR. SANDERS: I think you already answered this  
22 question but I am going to ask it anyway.

23          Is it your testimony that you would not be able to meet  
24 the temperature requirements even with the new intake?

25          MR. WILSON: Since we don't have a new intake and no

1 guarantee that we are going to ever have it, I didn't  
2 address that.

3 MR. SANDERS: And Yuba County Water Agency's  
4 consultants were not asked to model the impact of the new  
5 intake, the projected impact of the new intake; is that  
6 correct?

7 MR. WILSON: If you could clarify that a bit, possibly  
8 I could answer it. As it is, I'm not sure.

9 MR. SANDERS: You testified that Yuba County Water  
10 Agency's consultant predicted that the benefit would be  
11 between two and seven degrees; is that correct?

12 MR. WILSON: Correct. And I think I spoke in error. I  
13 think between two and six, my recollection.

14 MR. SANDERS: Fair enough.

15 During their testimony I asked your consultant, Mr.  
16 Grinnell, why he hadn't modeled or whether he had modeled  
17 the effects of the proposed intake on Yuba River on  
18 temperatures.

19 Do you recall that testimony?

20 MR. WILSON: I remember, vaguely.

21 MR. SANDERS: So, is it correct, though, that Mr.  
22 Grinnell didn't, in fact, model?

23 MR. WILSON: That's my recollection, yes.

24 MR. SANDERS: And why weren't your consultants asked to  
25 model the proposed intake?

1           MR. WILSON: 'Cause I didn't have enough money in my  
2 budget to do it.

3           MR. SANDERS: I am going to go now to Attachment 3 of  
4 your testimony. That is a document entitled, "Water  
5 Transfer Fund Contribution to Lower Flood Control Water  
6 Conservation and Supply and Fisheries Activities; is that  
7 correct?

8           MR. WILSON: I believe you said Attachment 3?

9           MR. SANDERS: I am sorry about that. That is  
10 Attachment 5.

11          MR. WILSON: Attachment 5, that is yes?

12          MR. SANDERS: I am sorry, my mistake. The first item I  
13 am interested in is the County Groundwater Plan and  
14 Ordinance. Can you tell us what that is?

15          MR. WILSON: We have had an ongoing effort to develop  
16 what is termed a 30/30 plan, and that is the primary effort  
17 on that.

18          MR. SANDERS: Did the county adopt an ordinance?

19          MR. WILSON: They have not yet. I would anticipate in  
20 the future they may or may not.

21          MR. SANDERS: Has a final plan been drawn up or is it  
22 still --

23          MR. WILSON: Progress in work, work in progress.

24          MR. SANDERS: On Page 2 of that exhibit I am  
25 interested now in Dry Creek Mutual Water Company's

1 distribution system.

2 The water agency gave \$2,752,000 for construction of  
3 this distribution system; is that correct?

4 MR. WILSON: That amount has been provided for the  
5 system. A portion of that is a loan and a portion is a  
6 grant.

7 MR. SANDERS: Who is Dry Creek Mutual Water Company?

8 MR. WILSON: I don't know all of their names. There's  
9 probably 60 to a hundred landowners involved.

10 MR. SANDERS: Sixty to a hundred landowners.

11 Are they a private entity or public water agency? Do  
12 you know?

13 MR. WILSON: A mutual water company is a private  
14 entity.

15 MR. SANDERS: So they are not an irrigation district?

16 MR. WILSON: They are not an irrigation district.

17 MR. SANDERS: When did they hook up to Yuba County  
18 Water Agency?

19 MR. WILSON: The first deliveries were '98.

20 MR. SANDERS: When exactly did they construct their  
21 distribution system?

22 MR. WILSON: It's been in progress since 1997. The  
23 final construction was completed at the -- for the end of  
24 '99.

25 MR. SANDERS: Prior to starting construction, was there

1 EIR under CEQA?

2 MR. WILSON: There was an environmental assessment and  
3 there was a negative declaration adopted.

4 MR. SANDERS: How many acre-feet per year does Yuba  
5 County Water Agency supply to Dry Creek?

6 MR. WILSON: In 1998 we supplied 1.084 acre-feet, and  
7 in 1999 we supplied 3,488 acre-feet. Excuse me, I stand  
8 corrected on that. There was some waterfowl water and the  
9 total time is 3,975 for '99 and -- yeah, I need to correct  
10 -- yes, I need to correct my figure for '98. There was some  
11 additional waterfowl water that year, and the total is 1,402  
12 acre-feet for '98.

13 MR. SANDERS: Are they entitled to more water than that  
14 in the future?

15 MR. WILSON: Correct.

16 MR. SANDERS: About how much water do they have a  
17 contract for? Ballpark is fine.

18 MR. WILSON: 16,743 acre-feet.

19 MR. SANDERS: How much do they pay per acre-foot?

20 MR. LILLY: Excuse me. I object. The question is  
21 ambiguous as to whether he means payments just to the agency  
22 or the total payments they make to everyone for the total  
23 cost of the water.

24 H.O. BROWN: Mr. Sanders, rephrase the question.

25 MR. SANDERS: How much money do they pay the agency per

1 acre-feet?

2 MR. WILSON: There are two classes of water in their  
3 contract. The base supply is \$1.25 acre-feet. The  
4 supplemental supply is \$3.25; and on the average the canal  
5 maintenance cost to get it to them is \$1.60 an acre-foot.

6 MR. SANDERS: Are their diversion ditches lined?

7 MR. WILSON: They have no diversion ditches.

8 MR. SANDERS: Can you elaborate a little?

9 MR. WILSON: Their canal, a portion of it is unlined.  
10 The bulk of their system is in pipeline.

11 MR. SANDERS: Do you know if they have a groundwater  
12 management plan?

13 MR. WILSON: I do not know that.

14 MR. SANDERS: Do you know if they have a surface water  
15 management plan?

16 MR. WILSON: I do not know that.

17 MR. SANDERS: On your testimony at Page 11, you state,  
18 the first paragraph, final sentence:

19 The water transfers funds that YCWA has spent  
20 have all gone for the betterment of the  
21 community and not for the financial gain of  
22 individuals. (Reading.)

23 MR. WILSON: That's correct.

24 MR. SANDERS: It sounds to me like the water company or  
25 the water agency has given two and three-quarter million

1 dollars to the Dry Creek Mutual Water Company, a private  
2 entity.

3 How do you answer that?

4 MR. WILSON: They are formed as a private entity. They  
5 function the same as -- very similar to an irrigation  
6 district in that they provide water to their customers.  
7 It's a choice they made as to how they were going to be  
8 formed.

9 The agency's mission is to provide a surface water  
10 supply, a reliable surface water supply, to the water needs  
11 in Yuba County. And in fulfilling that obligation the  
12 agency has assisted in the construction of their system,  
13 which the agency owns.

14 MR. SANDERS: Okay. I'll move on.

15 H.O. BROWN: How much more time, Mr. Sanders? I am  
16 not pressing you in your time, just considering whether to  
17 take a break now or not. Your call.

18 MR. SANDERS: I'd advise taking a break.

19 H.O. BROWN: We will take a 12-minute break.

20 (Break taken.)

21 H.O. BROWN: Come back to order.

22 Continue, Mr. Sanders.

23 MR. SANDERS: Thank you, Mr. Brown.

24 Mr. Wilson, I am going to move to Page 10 of your  
25 testimony right now. The last sentence:

1 YWCA's ability to transfer any water required  
2 to implement supplemental instream flow  
3 requirements will be significantly  
4 constrained if such new requirements require  
5 YWCA to release water during times when such  
6 water cannot be diverted by downstream users  
7 or otherwise applied to beneficial uses.

8 (Reading.)

9 Is that your testimony?

10 MR. WILSON: Correct.

11 MR. SANDERS: I am going to ask you to -- this is a  
12 very general question, and if you can't answer just go ahead  
13 and say so.

14 Can you elaborate what times of the year there is the  
15 demand for water? Leave it like that.

16 MR. WILSON: It varies from year to year and conditions  
17 in the Delta. It's very difficult to answer. It is a very  
18 moving target and very dynamic situation. Usually, the  
19 ideal time is if it is going to be from a direct release and  
20 then somebody diverted without putting, restoring it in  
21 either groundwater or other reservoir, those occurrences are  
22 generally after, because of Delta conditions primarily, from  
23 June to about through August. But there are other  
24 opportunities depending on Delta conditions and needs. It's  
25 a very dynamic situation, so it is hard to answer in a very

1 direct manner.

2 MR. SANDERS: And again, I want you to be just as  
3 general as you can in answering it. That is fine.

4 I don't know if there is a typical out-of-basin water  
5 transfer. Could you say there is a typical one?

6 MR. WILSON: No.

7 MR. SANDERS: That makes it a little more difficult.

8 I am just going to leave it at that. Move on to Page  
9 15.

10 At the very bottom of the page you talk about  
11 reoperating Bullards Bar and generally about Yuba County  
12 Water Agency's continuing search for higher degrees of flood  
13 control. You used the term "unless mitigated." I am trying  
14 to find it.

15 However, unless mitigated the dedication of  
16 additional reservoir storage to flood control  
17 would reduce the Yuba River Project's yield.

18 (Reading.)

19 By mitigated you mean building more storage, don't you?

20 MR. WILSON: That is one option. There are more than  
21 one option.

22 MR. SANDERS: What other options are there to mitigate  
23 for reoperating Bullards Bar to have a hundred thousand  
24 acre-feet less?

25 MR. WILSON: By water from somebody else.

1           MR. SANDERS: In terms of new storage projects, what  
2 projects are currently under consideration?

3           MR. WILSON: None.

4           MR. SANDERS: You do have water rights to substantially  
5 more water than you currently have storage capacity; is that  
6 correct?

7           MR. WILSON: Storage is a dynamic situation. Sometimes  
8 yes, sometimes no.

9           MR. SANDERS: Does Yuba County Water Agency have a  
10 groundwater substitution or conjunctive use program?

11          MR. WILSON: Could you be more specific as to what you  
12 are referring to?

13          MR. SANDERS: I am asking you if Yuba County Water  
14 Agency has a program for -- I am not sure I can be more  
15 specific -- for groundwater substitution or conjunctive use  
16 official policy or program?

17          MR. WILSON: We do not have an official policy. We  
18 have a program, when there is water available that we  
19 encourage the districts to keep water in the natural streams  
20 that would otherwise be ephemeral streams, and some of the  
21 areas that create wetlands. In general, in Yuba County the  
22 soils are very tight. There are not a lot of groundwater  
23 recharge opportunities. The few opportunities that exist  
24 are along the existing rivers and stream channels.

25          So to the degree we can encourage the districts to keep

1 water in those, we do have a program.

2 MR. SANDERS: Has Yuba County Water Agency done any  
3 investigation of conveyance loss along conveyance canals and  
4 ditches?

5 MR. WILSON: We have done some analysis of it.

6 MR. SANDERS: And has that analysis revealed  
7 significant losses?

8 MR. WILSON: No.

9 MR. SANDERS: Does Yuba County Water Agency have a  
10 water conservation policy?

11 MR. WILSON: No.

12 MR. SANDERS: How much water -- forget it then.

13 Is Yuba County Water Agency considering purchasing  
14 Narrows 1 from PG&E?

15 MR. WILSON: That decision has not been made.

16 MR. SANDERS: Is Yuba County Water Agency considering  
17 buying out the PG&E contract?

18 MR. WILSON: Last year when in PG&E's divestiture  
19 effort for the State Legislature, the power purchase  
20 contract such as ours were on the block to be sold. At that  
21 time we were trying to find an opportunity, if there was a  
22 opportunity, to see if it would be in our benefit to  
23 purchase our power purchase contract.

24 MR. SANDERS: The sale never happened?

25 MR. WILSON: The legislation never happened that would

1 allow it.

2 MR. SANDERS: Has Yuba County Water Agency investigated  
3 using eminent domain to basically take the power purchase  
4 contract?

5 MR. LILLY: Excuse me. I have to object to the extent  
6 that this question calls for any communication between Mr.  
7 Wilson and his attorneys on the grounds of attorney-client  
8 privilege. With that exception, I do not object to the  
9 question. But to the extent it invades attorney-client  
10 privilege, I do object.

11 MR. SANDERS: I am asking you to tell us --

12 H.O. BROWN: Address me, Mr. Sanders.

13 MR. SANDERS: I don't want Mr. Wilson to tell us  
14 anything that would be privileged or anything has been told  
15 to him or his attorney has communicated to him. I am asking  
16 in general has the agency considered an eminent domain  
17 proceeding with regard to the contract.

18 H.O. BROWN: I understand. Thank you, Mr. Sanders.

19 You may answer the question. If there is doubt in your  
20 mind, I suggest you get counsel to confer with you.

21 And, Counsel, obviously, if there is an inappropriate  
22 question, I am sure you will counsel Mr. Wilson.

23 Proceed with your question. Mr. Sanders.

24 MR. WILSON: I am aware that the agency has eminent  
25 domain plan authority.

1           MR. SANDERS: I asked if they have considered using  
2 that authority with regard to this contract.

3           MR. WILSON: I am just trying to reflect on some  
4 discussions that have been had. I believe in one of the  
5 discussions it was brought up. One of the Board Members  
6 asked if we had that ability.

7           MR. SANDERS: I think I read it in the paper, that is  
8 why I am asking about it. I am going to go on.

9           Does Yuba County Water Agency have an agreement with  
10 Western Water Company regarding the development of water  
11 supplies in the Yuba Goldfields area?

12          MR. WILSON: There is a three-party agreement that  
13 Western Water is a party to.

14          MR. SANDERS: Who is the other party?

15          MR. WILSON: Western Aggregates.

16          MR. SANDERS: Does this agreement give Yuba County  
17 Water Agency rights to any water within the Goldfields?

18          MR. WILSON: It gives the agency the ability to convey  
19 water across the Goldfields, and it gives the agency the  
20 right to intercept waters within the Goldfields, and it also  
21 gives the ability for the agency to develop and use up to  
22 10,000 acre-feet of the groundwater.

23          MR. SANDERS: How much did Yuba County Water Agency pay  
24 for this 10,000 right, to 10,000 acre-feet?

25          MR. WILSON: There was no specified amount. There was

1 an amount paid for all of the provisions in the contract for  
2 the agreement.

3 MR. SANDERS: How much did Yuba County Water Agency pay  
4 to Western, Western Aggregate?

5 MR. WILSON: I don't remember the figure.

6 MR. SANDERS: Does the agency make royalty payments or  
7 continuing payments or anything like that?

8 MR. WILSON: As a provision in the agreement, there is  
9 a conveyance charge per acre-foot for water transferred  
10 through the Goldfields, yes.

11 MR. SANDERS: I am just asking you to ballpark. Was it  
12 over a million dollars that Yuba County Water Agency paid to  
13 Western?

14 MR. WILSON: No.

15 MR. SANDERS: Have you reviewed the testimony submitted  
16 by Western Water Company?

17 MR. WILSON: No.

18 MR. SANDERS: Would it surprise you that Western claims  
19 to have water rights to surface waters within the  
20 Goldfields?

21 MR. WILSON: No.

22 MR. SANDERS: Now, if Western Water were, for instance,  
23 to take 300,000 acre-feet of water, of surface water, out of  
24 the Goldfields in a year, say, how would that affect Yuba  
25 County Water Agency's operations?

1           MR. WILSON: The reason I am smiling is I don't know  
2           how in the world you would ever do that. It would impact  
3           some portion of the supply that we now use.

4           MR. SANDERS: Are you familiar with the Yuba County  
5           Water Agency's agricultural water management program which  
6           SYRCL submitted as Exhibit S-SYRCL-2?

7           MR. WILSON: I remember some years back we did prepare  
8           that. It's been a long time since I looked at it.

9           MR. SANDERS: Does the plan require water suppliers to  
10          prepare water management plans?

11          MR. WILSON: I don't recall.

12          MR. SANDERS: How about this, this program was  
13          promulgated by Yuba County Water Agency; is that correct?

14          MR. WILSON: I believe at the direction of the  
15          state. I don't remember which entity.

16          MR. SANDERS: And are the terms of this program  
17          mandatory on the member water districts of the agency?

18          MR. WILSON: The agency does not have the ability under  
19          the Agency Act to impose anything on the districts that they  
20          can't do on their own.

21          MR. SANDERS: Okay.

22          Does this program require suppliers to operate -- to  
23          update their water management plans every five years?

24          MR. WILSON: It may. As I say, I have not visited this  
25          document for some time.

1           MR. SANDERS: Do you know if all of the water suppliers  
2 who receive Yuba County Water Agency water have prepared a  
3 water management plan?

4           MR. WILSON: I do not know that.

5           MR. SANDERS: Mr. Baiocchi asked you if YWCA has been  
6 in compliance with its terms of its water rights permits,  
7 and your answer was not always, which kind of struck me as  
8 extremely candid. I just want you to explain what you meant  
9 by this.

10          MR. WILSON: There have been times, not recent times,  
11 but times in the past when the agency was in variance with  
12 some minimum flow requirements.

13          MR. SANDERS: Is Yuba County Water Agency considering  
14 raising the level of New Bullards Bar as a flood control  
15 project?

16          MR. WILSON: That is one of the options that's being  
17 looked at.

18          MR. SANDERS: Would raising the level of the dam also  
19 increase available irrigation storage at New Bullards Bar?

20          MR. WILSON: Would depend on how the flood regulations  
21 were in regard to that. It could, but not necessarily.

22          MR. SANDERS: Let's make sure.

23                 That is it. Thank you very much, Mr. Wilson.

24          H.O. BROWN: Thank you, Mr. Sanders.

25          Mr. Cook.

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CROSS-EXAMINATION OF YUBA COUNTY WATER AGENCY

BY MR. COOK

MR. COOK: I would like to put an overhead up.

Good morning, Mr. Brown and Members of the Board and Mr. Wilson.

Mr. Wilson, I would like to ask you first a few questions on temperature in the Lower Yuba. I believe you covered that fairly thoroughly, and if I duplicate what may have already been asked, I apologize. I would like to clarify some of the things.

You testified, I think both in your written testimony and orally here this morning, that Bullards Bar is capable of releasing lower level water through the Colgate Powerhouse, but that below Bullards Bar the Middle Fork contributes warm water to the system.

Could I ask you to perhaps use your pen and indicate on that overhead where Bullards Bar is located and where the tunnel to the Colgate Powerhouse is located?

MR. WILSON: Bullards Bar Dam is at this location. This dashed line is the power tunnel.

MR. COOK: At the end of that dashed line is New Colgate, is the Colgate Powerhouse; is that correct?

MR. WILSON: That's correct.

1           MR. COOK:  Would you show them where the Middle Fork  
2 comes into the Yuba River?

3           MR. WILSON:  That location.

4           MR. COOK:  Thank you.

5           Can you show Oregon Creek and Middle Fork above Oregon  
6 Creek?

7           MR. WILSON:  Here is -- this is Oregon Creek, and this  
8 is Oregon Creek coming down to this location.  The Middle  
9 Yuba is in this location.

10          MR. COOK:  Would you then show the Hour House and Log  
11 Cabin diversion dams?

12          MR. WILSON:  Hour House is at this location on the  
13 Middle Yuba and Log Cabin is at this location on Oregon  
14 Creek.

15          MR. COOK:  Then there is a tunnel indicated by a dashed  
16 line going between Hour House and Log Cabin diversion dams  
17 and then on into the Bullards Bar Reservoir; is that  
18 correct?

19          MR. WILSON:  That's correct.

20          MR. COOK:  What is the minimum flow requirement below  
21 Hour House Dam?

22          MR. WILSON:  There's seasonal change in the  
23 requirement.  Part of the year it is 50 cfs and part of the  
24 year it is 30 cfs.

25          MR. COOK:  What is the minimum flow requirement below

1 Log Cabin?

2 MR. WILSON: Again, it is seasonal requirement; part of  
3 the year it is 12 cfs and part of the year it is 8 cfs.

4 MR. COOK: What is the amount of flow on a year-round  
5 basis through the tunnel from Hour House, Log Cabin into  
6 Bullards Bar Reservoir?

7 MR. WILSON: Anywhere from zero to a thousand cfs.

8 MR. COOK: Is there continuous flow through that tunnel  
9 all year long?

10 MR. WILSON: No.

11 MR. COOK: When is it not flowing?

12 MR. WILSON: In dry years when there is insufficient  
13 water to satisfy the downstream requirements.

14 MR. COOK: What downstream requirements are you talking  
15 about?

16 MR. WILSON: The ones you asked me about and I told you  
17 the numbers on.

18 MR. COOK: Those are requirements below the dams?

19 MR. WILSON: Correct.

20 MR. COOK: So, in other words, for the most part would  
21 you say, except in dry years, that the tunnel is flowing  
22 water into Bullards Bar?

23 MR. WILSON: Correct.

24 MR. COOK: And I think you said a minimum would be a  
25 thousand feet?

1 MR. WILSON: I said a minimum zero.

2 MR. COOK: To a thousand?

3 MR. WILSON: To a thousand max.

4 MR. COOK: That is the maximum amount of water that  
5 would go through the tunnels?

6 MR. WILSON: Pretty much so, yes.

7 MR. COOK: How many years do you have water flowing in  
8 that tunnel at that amount?

9 MR. WILSON: At a thousand cfs?

10 MR. COOK: Yes.

11 MR. WILSON: I don't have the numbers in front of me.  
12 Do you want me to hazard a guess?

13 MR. COOK: Approximately.

14 MR. WILSON: Probably, two or three in ten.

15 MR. COOK: And is the seven or eight years there would  
16 be no water flowing through the tunnel, part of the year?

17 MR. WILSON: No, not necessarily.

18 MR. COOK: I am not sure I understood your response.  
19 You said two or three years there would be water  
20 flowing continuous?

21 MR. WILSON: You asked if there would be flows of a  
22 thousand cfs, and I indicated somewhere two to three years  
23 probably in ten you would see that occurrence for part of  
24 the year.

25 MR. COOK: During how many years, then, during the

1 periods of ten years would there be no water flowing through  
2 it?

3 MR. WILSON: Probably in half the years there would be  
4 some months.

5 MR. COOK: How many months would that be?

6 MR. WILSON: It varies greatly with the year, anywhere  
7 from one to eight.

8 MR. COOK: Now, the minimum flows down Oregon Creek  
9 and the Middle Fork would be subject, are they not, to solar  
10 radiation and ambient air temperature impacts?

11 MR. WILSON: More with ambient air, not so much with  
12 solar. That stretch on both of those has a pretty heavy  
13 canopy. So, the solar radiation would be fairly minimal.

14 MR. COOK: Now, I believe you testified that the only  
15 means of temperature control at the Marysville gauge is to  
16 release more water from Bullards Bar?

17 MR. WILSON: That is basically correct, yes.

18 MR. COOK: Would increasing the Middle Fork and Oregon  
19 Creek flows between Hour House and Log Cabin Dams have any  
20 impact on temperature control downstream?

21 MR. WILSON: It will probably aggravate it. It would  
22 make it worse in most parts of the year.

23 MR. COOK: Why do you say that?

24 MR. WILSON: Because the Bullards water is so  
25 significantly much colder than the Middle and South Yuba

1 water above Log Cabin and above Daguerre Point Dam that it  
2 would add further warming to the Englebright water.

3 MR. COOK: Substantial amounts of the Middle Fork and  
4 Oregon Creek water go into Bullards Bar Reservoir, do they  
5 not?

6 MR. WILSON: That's correct.

7 MR. COOK: And Bullards Bar Reservoir is primarily  
8 filled by The North Fork; is that correct?

9 MR. WILSON: That is the largest tributary.

10 MR. COOK: Are you saying then that the North Fork is  
11 substantially colder than the Middle Fork and Oregon Creek?

12 MR. WILSON: No. I am saying the releases from New  
13 Bullards Bar are.

14 MR. COOK: New Bullards Bar has water coming in from  
15 the Middle Fork, Oregon Creek and the North Fork primarily?

16 MR. WILSON: Correct.

17 MR. COOK: And you say that the water from the Middle  
18 and Oregon Creek is warmer than water in Bullards Bar?

19 MR. WILSON: It is warmer than the deep cold water  
20 pool, yes. It is not warmer than the surface water.

21 MR. COOK: Then is the North Fork, then, warmer than  
22 the Middle Fork?

23 MR. WILSON: I have not run a comparison on those two.  
24 I would hazard that they are probably about the same.

25 MR. COOK: Is what you are saying then, the Middle Fork

1 and Oregon Creek could be dried up and there would be less  
2 water or less -- the temperature would be less downstream?

3 MR. WILSON: No.

4 MR. COOK: Are you saying, then, that the water from  
5 the Middle Fork increases the temperature downstream?

6 MR. WILSON: It increases the temperature in  
7 Englebright Reservoir.

8 MR. COOK: That is downstream of Bullards Bar?

9 MR. WILSON: Correct.

10 MR. COOK: Then if you had no water coming from the  
11 Middle Fork, wouldn't that alleviate the temperature  
12 increase?

13 MR. WILSON: No.

14 MR. COOK: Now, as far as controlling temperature at  
15 the Marysville gauge -- would you point out the Marysville  
16 gauge on the overhead? While you are up there would you  
17 show the location of the Daguerre Point Dam and the North  
18 and South Canal?

19 MR. WILSON: Daguerre Point Dam. These arrows leading  
20 northward are the north divisions. The arrows pointing  
21 southward at that point are the south diversion.

22 MR. COOK: What is the distance between Daguerre Point  
23 Dam and the Marysville gauge?

24 MR. WILSON: Approximately four miles.

25 MR. COOK: Would increasing the upper watershed flows

1 on the Middle Fork, Oregon Creek and North Fork of the Yuba  
2 River have any impact on reducing temperatures downstream  
3 from Bullards Bar Reservoir to the Marysville gauge?

4 MR. WILSON: Could you restate that? I am a little  
5 confused as to what you are asking.

6 MR. COOK: You are familiar with the fact that the  
7 upper watershed of Yuba River is somewhat controlled with  
8 dams and canals and diversions?

9 MR. WILSON: Correct.

10 MR. COOK: And would that have an impact, would the  
11 upstream watershed diversions have impact on the temperature  
12 down below?

13 MR. WILSON: To some degree.

14 MR. COOK: Would increasing those upstream watershed  
15 flows have an impact on the temperature as far down as the  
16 Marysville gauge?

17 MR. WILSON: That I am not sure. There's a lot happens  
18 going through reservoirs between there, and there is some  
19 flooding of that benefit because of that and there may be  
20 some, but I am not sure.

21 MR. COOK: You are familiar what Spaulding Reservoir?

22 MR. WILSON: I am aware of Spaulding Reservoir and  
23 where it generally is.

24 MR. COOK: Have you observed water below Spaulding?

25 MR. WILSON: I have not personally observed water below

1 Spaulding.

2 MR. COOK: Do you know if the flow is very minimal?

3 MR. WILSON: I know that their summer releases aren't  
4 great.

5 MR. COOK: Would removing Englebright Dam -- would you  
6 also please point out Englebright Dam on that overhead,  
7 please?

8 MR. WILSON: This is Englebright Dam.

9 MR. COOK: Thank you.

10 Would removing that dam have an impact on water  
11 temperatures by reducing the temperature at Marysville  
12 gauge?

13 MR. WILSON: Potentially, yes.

14 MR. COOK: Now, would increasing the flow across  
15 Daguerre Point Dam or below the Daguerre Point Dam have  
16 impact on temperatures at Marysville gauge?

17 MR. WILSON: Very, very slightly.

18 MR. COOK: Say all the water that is diverted into the  
19 South Canal and North Canal is allowed to pass below  
20 Daguerre Point Dam, wouldn't that have an impact on the  
21 temperature?

22 MR. WILSON: Again, very, very slightly. If you will  
23 remember Mr. Grinnell's testimony, he showed the  
24 correlation in that reach, and it's -- you don't get much  
25 benefit there.

1           MR. COOK: Isn't it true at the present time that the  
2 flows below Daguerre Point Dam are rather nominal; isn't  
3 that correct?

4           MR. WILSON: If you can tell me when.

5           MR. COOK: During the summer?

6           MR. WILSON: Again, varies from summer to summer. If  
7 you can define nominal for me.

8           MR. COOK: Are you familiar with the minimum flow  
9 requirements at Daguerre Point Dam?

10          MR. WILSON: Yes, I am.

11          MR. COOK: Are you familiar with the fact that in your  
12 -- in the Yuba County Water Agency FERC license -- if you  
13 bear with me just a second. I don't see what I am looking  
14 for offhand.

15                 Are you familiar with the fact that the license  
16 requires that the water flows below Daguerre Point Dam to be  
17 measured over the crest of the dam and through the fish  
18 channels?

19          MR. WILSON: Yes, that is in the license.

20          MR. COOK: Is there any way of measuring the flow of  
21 water across the Daguerre Point Dam?

22          MR. WILSON: You can measure it with an extremely low  
23 accuracy at low flows.

24          MR. COOK: Do you measure that water?

25          MR. WILSON: When you say do we measure it, we have but

1 we don't on a routine basis.

2 MR. COOK: Do you use the Marysville gauge four miles  
3 below the dam as a measurement of water across the dam?

4 MR. WILSON: We use it as the measure of our compliance  
5 with the flow requirements downstream of Daguerre.

6 MR. COOK: When you indicated you were not totally in  
7 compliance with your permit, I believe your --

8 MR. WILSON: I don't believe I said that.

9 MR. COOK: Let me withdraw that.

10 The FERC license requires minimum flows below Daguerre  
11 Point Dam measured across the dam and through the fishway,  
12 and isn't that also the requirement in your 1965 Department  
13 of Fish and Game agreement?

14 MR. WILSON: I believe that is there also.

15 MR. COOK: Isn't that the requirement in your water  
16 rights permit?

17 MR. WILSON: On the water rights permit, I am not  
18 sure.

19 MR. COOK: In any event, would you say then by not  
20 measuring the flows on a continuing basis across Daguerre  
21 Point Dam and through the fishways that you are in violation  
22 of both the FERC permit, FERC license, and the Department of  
23 Fish and Game 1965 agreement?

24 MR. WILSON: The U.S. Geological Survey has stated that  
25 it is not practical to measure flows across the crest of

1       Daguerre Point Dam and a more appropriate section in the  
2       river is downstream of Marysville to do so. We have  
3       notified both FERC and Department of Fish and Game of this  
4       condition, and they have not voiced any concern of our using  
5       this as the point of measurement.

6               MR. COOK: Have any of them given you written  
7       authorization to be in violation of the agreement in the  
8       FERC license?

9               MR. WILSON: They have -- we have no letter of giving  
10      permission to violate our license.

11              MR. COOK: Mr. Brown, may I ask your indulgence on a  
12      few more questions I have.

13              H.O. BROWN: You may, Mr. Cook. Proceed.

14              MR. COOK: Thank you.

15              Now holding where the Marysville gauge and Daguerre  
16      Point Dam for a few moments, it is not practical to measure  
17      the flow across the Daguerre Point Dam and, therefore, you  
18      must go to the Marysville gauge. I believe -- is that your  
19      testimony?

20              MR. WILSON: That's correct.

21              MR. COOK: Isn't it true that below Daguerre Point Dam  
22      and above the Marysville gauge there is water flow into the  
23      river or the main stem of the river from the Goldfields?

24              MR. WILSON: Correct.

25              MR. COOK: In other words, there is additional water

1 being measured at the Marysville gauge that does not cross  
2 the Daguerre Point Dam, but comes in from the Goldfields?

3 MR. WILSON: Correct.

4 MR. COOK: That water, have you checked the  
5 temperature of it?

6 MR. WILSON: Periodically we have spot checks.

7 MR. COOK: Would you say water coming in from the  
8 Goldfields is warmer than the water within the channel below  
9 Daguerre Point Dam?

10 MR. WILSON: It depends on the number of circumstances.  
11 Sometimes yes and sometimes no.

12 MR. COOK: Would you say that there is turbidity in  
13 that water coming in from the Goldfields?

14 MR. WILSON: I have never observed that.

15 MR. COOK: You point out -- I will see if I can speed  
16 this up as much as possible.

17 You point out that the Yuba County Water Agency seems  
18 to remain in dominion and control of water of the instream  
19 water passing through the Yuba River; is that correct?

20 MR. WILSON: That is not what I stated.

21 MR. COOK: What did you say?

22 MR. WILSON: Any increased requirements for instream  
23 flow.

24 MR. COOK: At the present time you are making transfers?

25 MR. WILSON: Correct.

1 MR. COOK: As it is?

2 MR. WILSON: Occasionally.

3 MR. COOK: You exerting dominion and control over that  
4 transfer water, are you not?

5 MR. WILSON: Correct.

6 MR. COOK: To make it short, whatever dominion and  
7 control the Yuba County Water Agency would have would be  
8 subject first to permits from the California State Water  
9 Resources Control Board?

10 MR. WILSON: Absolutely.

11 THE WITNESS: You are familiar, I think, in your  
12 capacity with at least the basics of the public trust  
13 doctrine?

14 MR. WILSON: I am aware of it.

15 MR. COOK: And it is necessary -- I believe you or do  
16 you understand that it is also necessary to comply with the  
17 requirements of the public trust, not considering whatever  
18 they are?

19 MR. WILSON: If I knew specifically what those were.  
20 They're pretty broad and pretty vague and pretty hard for me  
21 to understand what the requirement would be.

22 MR. COOK: Without considering the specific  
23 requirements, you realize that is something that would  
24 interfere or take away from the total dominion and control  
25 of the water?

1 MR. WILSON: I'm -- that I am not aware of.

2 MR. COOK: On transfers, you have indicated in your --  
3 in one of the attachments to the written testimony that the  
4 Yuba County Water Agency, I believe, has received somewhere  
5 in the vicinity of \$31,000,000 for water transfers?

6 MR. WILSON: No.

7 MR. COOK: If I can find that particular chart.

8 Attachment 5, Page 3 of 3, there is total of something  
9 that is in excess of \$31,000,000. There is no dollar sign;  
10 I am assuming it is dollars.

11 MR. WILSON: This is Page 3 of 3?

12 MR. COOK: Page 3 of 3, yes.

13 MR. WILSON: That is correct.

14 MR. COOK: Is that money received by the Yuba County  
15 Water Agency for transfers?

16 MR. WILSON: Correct.

17 MR. COOK: Is that total for what period of time?

18 MR. WILSON: Well, this is what has been expended on  
19 items that are listed on these three pages.

20 MR. COOK: This is not receipts, but it is expenditures?

21 MR. WILSON: These are expenditures.

22 MR. COOK: Basically, then, these are expenditures of  
23 money received for transfers?

24 MR. WILSON: Correct.

25 MR. COOK: On expenditures, you indicated I believe

1 that South Yuba Water District received some \$413,000,000  
2 for siphon under Route 65 and some \$900,000,000 as a loan;  
3 is that correct?

4 MR. MINASIAN: The question misstates the schedule on  
5 the evidence.

6 H.O. BROWN: Mr. Cook.

7 MR. COOK: I am just rounding out the figures. I am  
8 not using precise dollars and cents. I will put it on an  
9 approximate basis. I think that may solve the problem.

10 MR. WILSON: Can you restate your question, please?

11 MR. COOK: Referring to the South Yuba Water District,  
12 your Attachment 5 appears to indicate that approximately  
13 413,000,000 -- or \$413,000, I beg your pardon, \$413,000 has  
14 been expended for a siphon and that a loan to the South Yuba  
15 Water District was \$900,000; is that correct?

16 MR. WILSON: Those are approximate figures.

17 MR. COOK: Now, for the south county irrigation  
18 conveyance, do you see that on your list there? I think if  
19 you look at dollars, that it is the biggest one.

20 MR. WILSON: Yes.

21 MR. COOK: So, Yuba County Water Agency has expended on  
22 behalf of the or for the purpose of the south county  
23 irrigation conveyance some \$6.9 million of the transfer  
24 money?

25 MR. WILSON: That was for acquisition of part of the

1 system, yes.

2 MR. COOK: One further thing, the Yuba County Water  
3 District, which is also a south county water district --

4 MR. WILSON: Yuba County Water District is up in the  
5 Browns Valley area.

6 MR. COOK: I see; I beg your pardon.

7 In any event, on the Yuba County Water District you  
8 expended approximately \$150,000 for assistance and \$240,000  
9 as a loan; is that correct?

10 In the interest of saving time, I will withdraw that  
11 question.

12 What I would like to know is this, with respect to the  
13 South Yuba Water District, how much does the Yuba County  
14 Water Agency charge for the water delivered to that  
15 district?

16 MR. WILSON: The -- you want total dollars or units?

17 MR. COOK: Per acre-foot, I believe.

18 MR. WILSON: The current charge for the base supply is  
19 \$1.25 an acre-foot. For the supplemental supply is \$3.25 an  
20 acre-foot. And on the average, the canal M&I charge is  
21 \$1.60 an acre-foot.

22 MR. COOK: For the Brophy District, what is the charge  
23 there?

24 MR. WILSON: It is the same.

25 MR. COOK: What about the charges to the other

1 districts served by the Yuba County Water Agency?

2 MR. WILSON: Can you be specific, which ones?

3 MR. COOK: Are they all the same or are they different?

4 MR. WILSON: There are differences.

5 MR. COOK: Do any of them exceed for base charge \$1.25  
6 a foot?

7 MR. WILSON: No.

8 MR. COOK: Now, it was pointed out in your testimony,  
9 I believe it is Page 10, but in any event you pointed out  
10 that you made two transfers of water since 1992?

11 MR. WILSON: Correct.

12 MR. COOK: To whom did those go?

13 MR. WILSON: One went to the Bureau of Reclamation.  
14 The other one went -- the water actually went to the Bureau  
15 of Reclamation but on behalf of the Sacramento area flood  
16 control agency.

17 MR. COOK: What does the Yuba County Water Agency  
18 charge for those transfers?

19 MR. WILSON: Those are \$50 an acre-foot.

20 MR. COOK: Going back a little before that, I think  
21 there has been testimony about the governor's water bank  
22 program deliveries or transfers.

23 What was the charge for that?

24 MR. WILSON: When you say charge, I am not sure what  
25 you mean.

1           MR. COOK: Was or did the Yuba County Water Agency make  
2 a charge of \$125 an acre-foot for water delivered to the  
3 state during the last drought?

4           MR. WILSON: For part of it, but not for all.

5           MR. COOK: You say part of it, what was the other part?

6           MR. WILSON: The other part was the part that went as  
7 part of the water bank, the 28,000 that went to Department  
8 of Fish and Game.

9           MR. COOK: How much did Yuba County Water Agency charge  
10 for that?

11          MR. WILSON: As I recall, it was \$50.

12          MR. COOK: Would you admit that the water supplied to  
13 the consumptive users out of the North and South Canal is  
14 basically a subsidy supplied by Yuba County Water Agency?

15          MR. LILLY: I am going to object to that. That  
16 question calls for a legal conclusion.

17          H.O. BROWN: All right. Thank you, Mr. Lilly. And,  
18 Mr. Lilly, I appreciate you standing up. I also recognize  
19 it is difficult at the table, you just pull the mike forward  
20 and I will recognize you.

21          MR. LILLY: Thank you.

22          H.O. BROWN: Mr. Cook.

23          MR. COOK: Well, I think that Mr. Wilson has testified  
24 that he is the administrator for this district, that he is  
25 responsible for the operations of the district. I think he

1 would be expected to know the market value of water that is  
2 being transferred by the Yuba County Water Agency, and that  
3 that is basically what I am asking. If the locals are  
4 receiving water at \$1.25 a foot and the state is receiving  
5 water for up to as much as \$125 an acre-foot, I think the  
6 term subsidy is proper.

7 H.O. BROWN: I will not rule on the term subsidy being  
8 proper. I think your question is a fair question and you  
9 may use a different word than subsidy if you look. I  
10 understand the point of your question.

11 MR. WILSON: We are delivering water to our local area,  
12 which is our charge to do so, at our cost.

13 MR. COOK: The dollar 25 cents an acre-foot, is that  
14 enough money to pay for the cost of maintenance of your  
15 facility?

16 MR. WILSON: That is why I indicated several times  
17 there is \$1.60 additional charge on top of that. That is  
18 for the O&M of the canal system.

19 MR. COOK: Does that pay for the capital investment,  
20 for the \$31,000,000, for example, whatever the money has  
21 been expended for the benefit of these districts?

22 MR. WILSON: No.

23 Mr. COOK: Did the Yuba County Water Agency purchase  
24 the South Canal from the South Yuba Water District?

25 MR. WILSON: They purchased a portion of it.

1           MR. COOK: How much did they pay the South Yuba Water  
2 District?

3           MR. WILSON: I don't have a breakout of the two. A  
4 portion of that was acquired from Brophy Water District and  
5 a portion from South Yuba Water District.

6           MR. COOK: Do you know the total cost?

7           MR. WILSON: That was one of the items that is asked, I  
8 believe. I can get it for you.

9           I am not certain this figure is the purchase price  
10 only. It may have some other costs, \$6,969,545.31.

11          MR. COOK: Thank you.

12          Going on to the economy questions that you submitted  
13 and have testified to. I think you stated that the Yuba  
14 County has the highest share of irrigating cropland in the  
15 Sacramento Valley at 82 percent; is that correct?

16          MR. WILSON: This was from a report that was done by  
17 University of California at Davis last year.

18          MR. COOK: You have submitted that as part of your  
19 testimony?

20          MR. WILSON: I submitted the statement from that  
21 study.

22          MR. COOK: Now, of that irrigated cropland you have  
23 also stated, I believe, that rice is the leading commodity  
24 in Yuba County?

25          MR. WILSON: That is correct.

1           MR. COOK:  And you also stated that Yuba County  
2 agriculture is dependent on surface water for irrigation?

3           MR. WILSON:  That is generally correct, yes.

4           MR. COOK:  The amount of agricultural land requiring  
5 surface water for irrigation has increased since 1992?

6           MR. WILSON:  That is correct.  I will leave it at  
7 that.

8           MR. COOK:  You have also stated, I believe, that the  
9 Yuba County is dependent on agriculture jobs to a great  
10 extent?

11          MR. WILSON:  Correct.

12          MR. COOK:  Now, going to the negatives, you indicated  
13 that the workforce in Yuba County is to a great extent an  
14 unskilled workforce?

15          MR. WILSON:  That's correct.

16          MR. COOK:  And that -- however, by maintaining or  
17 reducing Yuba County Water Agency's surface water supply  
18 would result in increased welfare, poverty and all related  
19 social ills.  I think that is your testimony.

20          MR. WILSON:  Correct.  This is a conclusion of Mr. --  
21 the county administrator had made and the current statistics  
22 reflect that is still correct.

23          MR. COOK:  And you've discussed economic conditions in  
24 Yuba County including poverty, reduced property taxes,  
25 inadequate county services, lack of economic growth, high

1 unemployment, low per capita income, high cost of public  
2 assistance, extremely poor children, high crime rate and  
3 population decline.

4 You have indicated that the condition in 1992 as  
5 testified by Mr. Morawczinski, and that it's continued to  
6 the present time?

7 MR. WILSON: That's correct.

8 MR. COOK: You also indicated that Yuba County remains  
9 at the low end of the scale in most of those categories that  
10 I mentioned?

11 MR. WILSON: That's correct.

12 MR. COOK: And that there has been little, if any,  
13 economic gains since 1992?

14 MR. WILSON: That's correct.

15 MR. COOK: Would you conclude that perhaps one of the  
16 problems in Yuba County is its dependence almost entirely on  
17 agriculture for its economic well-being?

18 MR. WILSON: Since it doesn't have many other  
19 opportunities, that is about all it has to rely on.

20 MR. COOK: You indicated that or you testified to the  
21 effect that the Yuba County Water Agency water transfer  
22 funds, the funds it received from water transfers, has gone  
23 to the betterment of the community?

24 MR. WILSON: Correct.

25 MR. COOK: And not for private gain?

1 MR. WILSON: Correct.

2 MR. COOK: Have any of the funds you received on  
3 transfer gone to improve public libraries?

4 MR. WILSON: Within the Yuba County Water Agency Act we  
5 would not be able to do that.

6 MR. COOK: Have any of the transfer funds gone for  
7 local parks?

8 MR. WILSON: Again, because of the restrictions in the  
9 Yuba County Water Agency Act, which is part of the Water  
10 Code, we would not be able to do that.

11 MR. COOK: Did you just recently testify this morning  
12 about the fact that you expend some funds for recreation  
13 purposes?

14 MR. WILSON: Those funds are a requirement of our  
15 Federal Energy Regulatory Commission license in regards to  
16 the operation of the Yuba River Development Project.

17 MR. COOK: Are they inconsistent with the other  
18 requirements from the state law that you mentioned?

19 MR. WILSON: Don't believe so. These are an  
20 incremental part of what is authorized with the development  
21 of the project.

22 H.O. BROWN: Go ahead.

23 MR. COOK: Thank you.

24 Have you expended any funds for children's playgrounds?

25 MR. WILSON: Again, because of restrictions in the Yuba

1 County Water Agency Act, this is an area we are not allowed  
2 to expend funds.

3 MR. COOK: Have you expended any funds for matching  
4 purposes, matching grants for poverty or any other type of  
5 grant?

6 MR. WILSON: Again, because the restrictions in the  
7 Yuba County Water Agency Act, this is an area we are not  
8 allowed to expend funds.

9 MR. COOK: Without going further into this type of  
10 expenditure, the average unskilled worker in Yuba County,  
11 which apparently there are many, do not receive any real  
12 direct benefits, do they? Mostly, the transfer funding,  
13 goes to property owners in Yuba County, does it not?

14 MR. WILSON: This is permitting them to keep their jobs.

15 MR. COOK: I am talking about direct payments of  
16 transfer --

17 MR. WILSON: We have not paid any transfer funds to any  
18 individual.

19 MR. COOK: Bullards Bar releases, minimum requirement  
20 releases, below Bullards Bar are five cubic feet per second?

21 MR. WILSON: That is correct.

22 MR. COOK: Is it not true that below Bullards Bar that  
23 the bed of the Yuba River has no continuous flow of water  
24 but it consists only of ponds not connected to one another?

25 MR. WILSON: There is continuous flow.

1 MR. COOK: Can you see that flow by looking at it?

2 MR. WILSON: Not continuously. If you'll walk along  
3 and look down through the very porous rocks, you can usually  
4 see it.

5 MR. COOK: In other words, the continuous flow is down  
6 below the surface rocks; is that correct?

7 MR. WILSON: For about 800 feet.

8 MR. COOK: It's at five cubic feet per second, if my  
9 figures are right, correct me if I am wrong, that would be  
10 approximately ten acre-feet per day?

11 MR. WILSON: Yes.

12 MR. COOK: And that would, therefore, be 3,650  
13 acre-feet on an annual basis? 365 days times --

14 MR. WILSON: I am just making sure I have my decimal  
15 in the right place, yes.

16 MR. COOK: And that is the only amount that's released  
17 for the benefit of fishing and aquatic species below  
18 Bullards Bar Dam?

19 MR. WILSON: In addition to that there is some seepage,  
20 drainage leakage, from the dam that is on top of that. And  
21 we were making sluice or spill releases, those are on top of  
22 that.

23 MR. COOK: One of the proposed projects that Yuba  
24 County Water Agency has is Waldo Dam Project; is that  
25 correct?

1 MR. WILSON: It is not a proposed project.

2 MR. COOK: It is a project being studied?

3 MR. WILSON: It's a project that has been studied.

4 MR. COOK: Is it presently under study or waiting for  
5 further something?

6 MR. WILSON: It's basically on hold for now.

7 MR. COOK: You have inquiries from others seeking Yuba  
8 County water. I think it is Page 9 or 10. On Page 9 there  
9 have been -- let me skip that.

10 I want to speed this up just as much as I possibly  
11 can. I think I have covered enough of that at this point.  
12 I will withdraw the question, Mr. Wilson.

13 The only thing I would like to inquire now about is the  
14 point of diversion. Is the point of diversion on your water  
15 rights permits from the Water Board at the inlet of  
16 Daguerre Point Dam, near Daguerre Point Dam of the South  
17 Canal?

18 MR. WILSON: Yes.

19 MR. COOK: And isn't it a fact that you do not open the  
20 pipes that allow water to go into the South Canal from  
21 Daguerre Point Dam, I call it a reservoir, until sometime  
22 late in the season?

23 MR. WILSON: It varies, but the initial south  
24 diversions are with the river gauge closed.

25 MR. COOK: So you're diverting water until you open

1 those gates from the Yuba Goldfields rather than from the  
2 main steam of Yuba River?

3 MR. WILSON: That's correct.

4 MR. COOK: Is that water part of the flow of the Yuba  
5 River that seeps through the rocks of the Goldfields?

6 MR. WILSON: That is our contention.

7 MR. COOK: Then, the actual point of diversion of the  
8 Yuba River water is at the southerly edge of the Goldfields?

9 MR. WILSON: That is generally correct.

10 MR. COOK: So would it be correct to modify your point  
11 of diversion on your Water Board permit from the area of the  
12 Daguerre Point Dam down to the place where the South Canal  
13 leaves Yuba Goldfields?

14 MR. WILSON: This was discussed at some extent in the  
15 '92 hearings, and we provided coordinates to the State Board  
16 if they chose to do that.

17 MR. COOK: You would have no objection to changing the  
18 point of diversion?

19 MR. WILSON: No.

20 MR. COOK: Thank you very much, Mr. Brown. I certainly  
21 appreciate this, and I will end my cross-examination.

22 H.O. BROWN: Thank you, Mr. Cook.

23 We will take a lunch break. After the break, Mr.  
24 Minasian, you are up.

25 MR. MINASIAN: Yes.

1 H.O. BROWN: Any business before the break?

2 We will return here at 1:00.

3 (Luncheon break taken.)

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AFTERNOON SESSION

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H.O. BROWN: We will come back to order.  
Mr. Minasian, you are up.

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CROSS-EXAMINATION OF YUBA COUNTY WATER AGENCY  
BY SOUTH YUBA WATER DISTRICT & CORDUA IRRIGATION DISTRICT  
BY MR. MINASIAN

MR. MINASIAN: Thank you.

Mr. Wilson, could I direct your attention to a provision of the proposed decision which deals with the fluctuations in flow after October 15th and up through March 31?

Are you familiar with the provision that I am referring to?

MR. WILSON: Generally. I don't have the specifics in front of me.

MR. MINASIAN: Do you understand the effect of that provision would be to require, generally, that if water deliveries after October 15 to agricultural customers in the area of Daguerre Point Dam went up, that even if they didn't need the water, you could not go down in terms of flow rights?

MR. WILSON: Yes, that is my understanding as to how it would have to work.

1           MR. MINASIAN: That provision is regardless of whether  
2 or not the juvenile salmon have emerged from the incubation  
3 in the redds, and regardless of whether or not they're  
4 mobile and able to follow the fluctuations of the water?

5           MR. WILSON: Yes.

6           MR. MINASIAN: Could you tell us what affect -- first  
7 of all, this is a provision that applies both dry and wet  
8 years?

9           MR. WILSON: Correct.

10          MR. MINASIAN: Could you give us an idea of generally  
11 what affect that will have upon use for waterfowl habitat,  
12 straw decomposition/waterfowl habitat and crops that might  
13 be in the ground on October 15th in a dry year?

14          MR. WILSON: Unless we had significant storage, we  
15 would have trouble with that because once we committed to  
16 that flow, then we are obligated, basically, for the  
17 extended period of time to maintain that flow.

18          MR. MINASIAN: And that will in a dry cycle draw down  
19 your carryover storage?

20          MR. WILSON: Correct. It will be fairly reticent to  
21 making those extra releases because of that.

22          MR. MINASIAN: There was a question and you testified  
23 regarding the financing of the Yuba Bear Project. The  
24 \$11,000,000 figure is a gross income figure for power  
25 generation guaranteed, hell or high water; is it not?

1           MR. LILLY: Excuse me, you said the Yuba Bear. I  
2           assume you mean the Yuba River Project.

3           MR. MINASIAN: Thank you. The Yuba Project.

4           MR. WILSON: Those revenues include the provision for  
5           bond repayment and operation of and maintenance of the  
6           project, less recreation costs.

7           MR. MINASIAN: So, effectively there is no positive  
8           cash flow on a dependable basis from the original financing  
9           other than paying operational maintenance costs and some  
10          costs the agency would have to bear for distribution of  
11          agriculture water?

12          MR. WILSON: That as well as recreation. The project  
13          is basically negative cash flow to the agency primarily  
14          because of the recreation requirements.

15          MR. MINASIAN: Mr. Wilson, a lot of questions were  
16          asked of you in regard to conservation and in regard to  
17          plans and documents regarding water use plans. And you have  
18          been with Yuba County -- how long have you been with Yuba  
19          County Water Agency?

20          MR. WILSON: A little over 12 years.

21          MR. MINASIAN: During this time you have monitored the  
22          activities and the organizational efforts of the member  
23          units, the districts that take the water and distribute to  
24          the customers, have you not?

25          MR. WILSON: Correct.

1           MR. MINASIAN:  Would you describe them basically as the  
2 engine that makes agriculture work in Yuba County?

3           MR. WILSON:  Absolutely.

4           MR. MINASIAN:  Is that engine based on a social fabric  
5 of contracts?

6           MR. WILSON:  Yes.

7           MR. MINASIAN:  That is there is a contract with the  
8 agency providing water for the member units; is there not?

9           MR. WILSON:  With each entity, yes.

10          MR. MINASIAN:  And the agency has a contract with the  
11 Department of Fish and Game in regard to fish flows called  
12 the '65 agreement, doesn't it?

13          MR. WILSON:  That's correct.

14          MR. MINASIAN:  The agency has a contract with PG&E for  
15 receipt of moneys for power generation which allowed the  
16 project in the beginning?

17          MR. WILSON:  Correct.

18          MR. MINASIAN:  There's another tier of fabric; that is  
19 the efforts of the South Yuba and Brophy Water District to  
20 build this distribution system to the south?

21          MR. WILSON:  That's correct.

22          MR. MINASIAN:  Is that fabric also made up of  
23 contracts?

24          MR. WILSON:  Yes.

25          MR. MINASIAN:  Is one of those contracts the contract

1 with the Department of Fish and Game in which the gabion was  
2 specified and the specifications and performance standards  
3 set forth?

4 MR. WILSON: Yes.

5 MR. MINASIAN: Do you have an opinion based on your 12  
6 years of whether or not this engine that creates this social  
7 fabric could possibly function to build another project in  
8 Yuba County under the circumstances in which these contracts  
9 are being revised with no assurance in the future that other  
10 contracts won't be revised?

11 MR. WILSON: Be very, very difficult.

12 MR. MINASIAN: Is that, in fact, something that has  
13 prevented you from developing new water supply projects like  
14 enhanced Bullards Bar?

15 MR. WILSON: Yes.

16 MR. MINASIAN: Thank you.

17 Nothing further.

18 H.O. BROWN: Thank you, Mr. Minasian.

19 Mr. Gallery.

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21 CROSS-EXAMINATION OF YUBA COUNTY WATER AGENCY

22 BY BROPHY WATER DISTRICT

23 BY MR. GALLERY

24 MR. GALLERY: Did Mr. Minasian just choose to stand or  
25 are you permitted to sit?

1 H.O. BROWN: You make yourself at home, Mr. Gallery.

2 MR. GALLERY: I just have a few questions, Mr. Wilson.

3 Mr. Cook seemed to be concerned that the agency was  
4 providing some sort of subsidy in the water pricing to the  
5 member districts such as Brophy and South Yuba.

6 First, the water cost to the districts, the base water  
7 cost, from the agency for the water itself is \$1.25 per  
8 acre-foot for a portion?

9 MR. WILSON: That is what it currently is, yes.

10 MR. GALLERY: \$3.25 per acre for a portion; there is  
11 two costs for use of water?

12 MR. WILSON: That's correct.

13 MR. GALLERY: So the actual cost is somewhere between  
14 those two numbers per acre-foot?

15 MR. WILSON: Correct.

16 MR. GALLERY: That cost that you are charging to the  
17 districts is, basically, that is the cost to the agency of  
18 getting the water to them; isn't that correct?

19 MR. WILSON: It covers most of that. In the case of  
20 Brophy there is an additional charge for canal O&M, which is  
21 about \$1.60 an acre-foot.

22 MR. GALLERY: That is over and above?

23 MR. WILSON: That is over and above the other numbers.

24 MR. GALLERY: So that the agency itself is really just  
25 another version of Yuba County, isn't it?

1           MR. WILSON: Not really. The NAE is a total separate  
2 -- Yuba County Water Agency is a separate entity from the  
3 county. We work very cooperatively with the county. We are  
4 a separate entity. We have our separate set of regulations  
5 that we operate by. We have our separate funding sources.

6           MR. GALLERY: Your Board of Directors consists in part  
7 of the county supervisors?

8           MR. WILSON: That is correct. By the Agency Act the  
9 five county Board of Supervisors make up part of the agency  
10 board.

11          MR. GALLERY: Then you have additional directors?

12          MR. WILSON: There are two additional directors that  
13 are elected at large.

14          MR. GALLERY: You have a seven-man Board, seven-person  
15 Board?

16          MR. WILSON: Correct.

17          MR. GALLERY: Your territorial jurisdiction is the same  
18 as Yuba County boundaries?

19          MR. WILSON: It is all of Yuba County's boundaries plus  
20 if any of our member districts' boundaries that go beyond  
21 the county boundary, which we go into three additional  
22 counties, it also includes those lands.

23          MR. GALLERY: You're a public agency organized under a  
24 the Special District Act, special act of the Legislature; is  
25 that correct?

1 MR. WILSON: That's correct.

2 MR. GALLERY: Really the people that are served are the  
3 people and landowners in Yuba County?

4 MR. WILSON: That's correct.

5 MR. GALLERY: It is fair to say that the people and  
6 landowners in Yuba County really are the agency, are the  
7 owners of the agency?

8 MR. WILSON: Absolutely.

9 MR. GALLERY: So when the water is priced to them at  
10 \$1.25 and \$3.25, it's really the people themselves that are  
11 pricing the water to the customers; is that correct?

12 MR. WILSON: Their representatives are doing that, yes.

13 MR. GALLERY: There is no sense of any subsidy in that  
14 arrangement in your mind, is there?

15 MR. WILSON: No.

16 MR. GALLERY: The actual setting of the price for the  
17 water, \$1.25 and 3.25, that price was set in the 1980s;  
18 isn't that correct?

19 MR. WILSON: The original contracts had a price that  
20 was less than that. There is a provision within the water  
21 service contracts that the cost of water on no more  
22 frequently -- no more frequent than a five-year interval can  
23 be increased by the percentage increase in the consumer  
24 price index during that period.

25 MR. GALLERY: You recall when the price was set at

1 \$1.25 to 3.25 per acre-foot?

2 MR. WILSON: It's been about six years ago.

3 MR. GALLERY: Was it before or after the agency was  
4 able to sell some water during the 1991 and '90 droughts to  
5 the Department of Water Resources?

6 MR. WILSON: It was after.

7 MR. GALLERY: It was afterwards.

8 And your testimony in exhibit -- Attachment 5 to your  
9 testimony shows that the agency has paid \$6.9 million for  
10 the irrigation conveyance system to the south county, and  
11 those were moneys that were paid through, basically, the  
12 Brophy and South Yuba Water Districts?

13 MR. WILSON: I believe that is correct.

14 MR. GALLERY: It is true, isn't it, that the two  
15 districts themselves, Brophy and South Yuba, constructed the  
16 irrigation conveyance from the river down to the districts  
17 in the 1980s; is that correct?

18 MR. WILSON: Correct.

19 MR. GALLERY: That the 6.9 million represents the  
20 actual cost that those districts incurred to build that main  
21 conveyance system?

22 MR. WILSON: Generally. In the case of Brophy that was  
23 the case. In the case of South Yuba, it was the remaining  
24 indebtedness they had on that system.

25 MR. GALLERY: In any event, it was really to reimburse

1       them for the investment they made to construct the main  
2       canal conveyance system?

3               MR. WILSON:   That was the intent.

4               MR. GALLERY:   Mr. Wilson, are you familiar with the  
5       background of the authorization and construction of the Yuba  
6       River Project in the 1960s?

7               MR. WILSON:   I was not present, but I am familiar with  
8       how that went.

9               MR. GALLERY:   When the project -- when the people of  
10       Yuba County voted on the project in the 1960's to authorize  
11       its construction and to sell the bonds, the project at that  
12       time included the irrigation conveyance system to the south  
13       county to be constructed as part of the project; is that  
14       correct?

15               MR. WILSON:   That was part of it.   There was an  
16       additional irrigation delivery system.   There was also an  
17       additional system to the north.   But there were within the  
18       initial proposal which was voted on by the people of Yuba  
19       County when they authorized the issuance of the bonds  
20       included the irrigation distribution systems.

21               MR. GALLERY:   That irrigation conveyance system to the  
22       south county was deleted before the project was constructed  
23       because the money wasn't there to build it?

24               MR. WILSON:   That is correct.   When the agency first  
25       went forward with request for bids for constructing the

1 project, even though a lot of interest by a number of  
2 contractors, they all deemed that there was more project to  
3 be built than there was money available.

4 MR. GALLERY: So, in any event, the project as  
5 originally built had deleted from it the irrigation system  
6 to the conveyance system to the south county?

7 MR. WILSON: That's correct.

8 MR. GALLERY: So that in the 1980s Brophy and South  
9 Yuba Districts had not having any water from the project  
10 went ahead and built the conveyance systems itself?

11 MR. WILSON: That's correct.

12 MR. GALLERY: So you took it over from them and paid  
13 them the cost they had expended to construct that?

14 MR. WILSON: That is correct.

15 MR. GALLERY: That is all the questions I have.

16 H.O. BROWN: Thank you, Mr. Gallery.

17 Mr. Bezerra, not here.

18 Mr. Morris.

19 MR. MORRIS: Mr. Brown, we do not have any questions  
20 for Mr. Wilson.

21 Thank you.

22 H.O. BROWN: Thank you, Mr. Morris.

23 Mr. Cunningham.

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CROSS-EXAMINATION OF YUBA COUNTY WATER AGENCY

BY DEPARTMENT OF FISH AND GAME

BY MR. CUNNINGHAM

MR. CUNNINGHAM: Afternoon, Mr. Wilson. I am Bill Cunningham. I am representing for the purpose of this hearing the Department of Fish and Game, and you will have to excuse me because I am going to kind of bounce around a little. I know you tried to present your testimony in a very prepared order, but by the time it gets to me I'm left with a helter-skelter approach to clean up.

MR. WILSON: I understand.

MR. CUNNINGHAM: Perhaps I could start with a document that I think has been identified as the supplement Yuba County Water Agency's Exhibit 27, which is the --

MR. WILSON: This is the one that the State Board staff requested, I believe.

MR. CUNNINGHAM: Yes. I guess the genesis of it.

MR. WILSON: I have it.

MR. CUNNINGHAM: Could you take a look at that, please? Can you perhaps -- you can use this mostly to help answer some questions, and then we'll get into the substance of it.

Looking on the first page, which says 1987 Irrigation Season Surface Water, it says -- there is a column over here of districts and a column next to it that says delivered.

1 Some other columns as well.

2 Simple questions first. First question: When it says  
3 districts, it is my understanding that the districts are  
4 listed there for 1987 were the sole districts that received  
5 delivered water from Yuba County Water Agency for 1987?  
6 Those were your customers for 1987?

7 MR. WILSON: Yes.

8 MR. CUNNINGHAM: Is it safe to say in each of the  
9 following pages where it says district that those listed  
10 below are your customers for that year's worth of irrigation  
11 surface water?

12 MR. WILSON: Correct.

13 MR. CUNNINGHAM: And I see in the next column over it  
14 says delivered, for example, on Brophy Water District, and  
15 South Yuba Water District for 1987 I believe it says  
16 delivered 56,669. I am assuming that is acre-feet?

17 MR. WILSON: That's correct.

18 MR. CUNNINGHAM: Same thing applies for all of those  
19 references, the delivered number is acre-feet?

20 MR. WILSON: All the numbers are in acre-feet.

21 MR. CUNNINGHAM: Now I see, for example, when it says  
22 Brophy Water District and South Yuba Water District the  
23 56,669, tells me how much that was delivered. Do you know  
24 if there is anything that I can look at in the documents  
25 that have been submitted by the agency to the Board where I

1 can find out what the actual contract amounts were for  
2 Brophy Water District and South Yuba District for that same  
3 irrigation system?

4 MR. WILSON: I do not have those contracts or summary  
5 of those contracts with me for 1987.

6 MR. CUNNINGHAM: Can you tell me for all of the years  
7 you have had here from 1987 through 1999, do you know has  
8 there been an identification of the actual contract amount  
9 of water to be delivered for each of these districts for any  
10 of these years as part of the records for the Board?

11 MR. WILSON: I don't remember whether that was  
12 submitted in '92 or not. I don't believe it has been  
13 submitted in the current hearing.

14 MR. CUNNINGHAM: When it says delivered -- this is more  
15 a generic question because I think you have delivered on  
16 each of these pages, various amounts. When it says  
17 delivered, is that an actual measured or gauge delivery?

18 MR. WILSON: That's correct.

19 MR. CUNNINGHAM: As to each of these deliveries,  
20 someplace I can assume there is a gauge that has measured  
21 this flow and allowed the calculation of number of acre-feet  
22 to be delivered?

23 MR. WILSON: With the exception of one of these.

24 MR. CUNNINGHAM: Which one would that be?

25 MR. WILSON: That is Wilbur Ranch.

1           MR. CUNNINGHAM: That is one that has a little  
2 asterisk with it that says flow per contract?

3           MR. WILSON: That's correct. That is the contract  
4 number. Wilbur Ranch has not provided us with their -- this  
5 is a pumped diversion from the river, and they have not  
6 provided us with their actual diversion numbers.

7           MR. CUNNINGHAM: Have you any means of ascertaining  
8 whether, for example, on just Wilbur Ranch, whether Wilbur  
9 Ranch is taking that amount or any lesser or greater amount?

10          MR. WILSON: Other than they have told us that is the  
11 amount they are taking.

12          MR. CUNNINGHAM: You ask them that every year, I assume?

13          MR. WILSON: We periodically ask them that.

14          MR. CUNNINGHAM: Periodically, is that something less  
15 than every year?

16          MR. WILSON: Some years less. Some years more.

17          MR. CUNNINGHAM: I assume every year you bill each  
18 each of the districts for the cost of providing water?

19          MR. WILSON: We do.

20          MR. CUNNINGHAM: And can you tell me where in the  
21 records you can look to find out what the total amount of  
22 billing for each of the districts has been for each of the  
23 years provided here? Is it somewhere in the records of the  
24 Board right now that I can look at?

25          MR. WILSON: Not that I am aware of.

1           MR. CUNNINGHAM: I see at the bottom here there is a  
2 total. For example on the first page for 1987 it says  
3 210,441 acre-feet, I guess is what you are telling me?

4           MR. WILSON: That's correct.

5           MR. CUNNINGHAM: Do you know how much water revenues  
6 were made for the sale of 210,441 acre-feet, were made for  
7 year 1987? How much did the agency actually collect for  
8 that delivery of water?

9           MR. WILSON: Don't have that number.

10          MR. CUNNINGHAM: Has that number been provided in any  
11 exhibit to the Board? Do you know?

12          MR. WILSON: Not to my knowledge.

13          MR. CUNNINGHAM: The next column over talks about  
14 waterfowl habitat. And while I was not here for all of the  
15 1992 hearings, can you perhaps help me understand what it  
16 means when it says waterfowl habitat, and, again, using the  
17 1987 number and the first line Brophy Water District and  
18 South Yuba Water District. It says 1,467 acre-feet were  
19 provided for waterfowl habitat; is that correct?

20          MR. WILSON: That's correct.

21          MR. CUNNINGHAM: Now is that -- how is waterfowl  
22 habitat defined there, is it just --

23          MR. WILSON: It is water that went to flood the fields  
24 so waterfowl would have habitat.

25          MR. CUNNINGHAM: Is this water that was also used for

1 rice decomposition purposes?

2 MR. WILSON: In 1987 the rice farmers were still almost  
3 a hundred percent burning stubble, so I doubt it.

4 MR. CUNNINGHAM: Who paid for the, again the first  
5 number, the 1,467 acre-feet of water at Brophy Water  
6 District and the South Yuba Water District? Who paid for  
7 that as far as water use for waterfowl habitat?

8 MR. WILSON: Brophy and South Yuba Water Districts.

9 MR. CUNNINGHAM: Was any other use made of the water  
10 other than waterfowl habitat?

11 MR. WILSON: I do not know.

12 MR. CUNNINGHAM: It is possible that some of that could  
13 have been used for rice straw decomposition at that time?

14 MR. WILSON: Since they weren't doing rice straw  
15 decomposition at that time, I doubt it.

16 MR. CUNNINGHAM: Then could some of that have been used  
17 for late irrigation to improve soil moisture for, perhaps,  
18 late season plowing or tilling?

19 MR. WILSON: That is possible.

20 MR. CUNNINGHAM: So, on those numbers, when it says  
21 waterfowl habitat in that column, you yourself have no  
22 knowledge whether any of those amounts of water were  
23 actually applied in a manner specifically for provision of  
24 waterfowl habitat?

25 MR. WILSON: I saw a number of fields in the area that

1 were flooded with a lot of waterfowl on them.

2 MR. CUNNINGHAM: As to specific amounts, you really  
3 don't know?

4 MR. WILSON: I do not know.

5 MR. CUNNINGHAM: I notice as we go through the years,  
6 just in that column of waterfowl habitat, it kind of goes up  
7 and down and up and down until in, for example, in 1998  
8 we're at 39,162 acre-feet total. Now, that's -- correct me  
9 if I am wrong. That is over 3,000 acre-feet less than in  
10 1987. Am I reading that correctly, that they actually put  
11 on less water for waterfowl habitat in 1998 than we did in  
12 '87 total?

13 MR. WILSON: According to this, yes.

14 MR. CUNNINGHAM: In 1998, do you have any idea whether  
15 or not the water applied for waterfowl habitat was also used  
16 for rice straw decomposition?

17 MR. WILSON: I would expect that that was the case.

18 MR. CUNNINGHAM: Do you have any idea whether all the  
19 water in that column for 1998 was waterfowl habitat or was  
20 used for rice straw decomposition as well?

21 MR. WILSON: Could you repeat the question, please?

22 MR. CUNNINGHAM: Do you have any idea about whether or  
23 not the water identified for waterfowl habitat in 1998,  
24 whether all that water was used for rice straw decomposition  
25 in 1998?

1           MR. WILSON: In the area, again, I saw a lot of fields  
2 flooded with a lot of waterfowl in them. That is the extent  
3 of my knowledge.

4           MR. CUNNINGHAM: I would like to ask you, did you --  
5 you helped prepare this chart, right?

6           MR. WILSON: No.

7           MR. CUNNINGHAM: You are familiar, at least familiar  
8 with what it is supposed to represent as far --

9           MR. WILSON: It was prepared at my request.

10          MR. CUNNINGHAM: Well, for example, in 1998, let's stay  
11 with the 1998 sheet, is it safe to assume, I believe, that  
12 water was being used for rice straw decomposition in 1998?

13          MR. WILSON: Rice straw decomposition was taking place  
14 in 1998.

15          MR. CUNNINGHAM: To the extent that is a beneficial  
16 purpose for an agricultural user, is that number included in  
17 the amount also identified as water delivered to a district?

18          MR. WILSON: No. That is additive, which is the last  
19 column that says total.

20          MR. CUNNINGHAM: So, there is no way I can discern from  
21 this graphic how much water was actually being used solely  
22 for waterfowl habitat versus how much water was actually  
23 being used for multiple purposes including rice straw  
24 decomposition; is that right?

25          MR. WILSON: You're correct.

1           MR. CUNNINGHAM: Mr. Wilson, help me with some numbers.  
2 I wrote them down, but I am not sure I got them right. You  
3 answered several other inquiries, questions about the  
4 incremental cost of acre-feet of water. And I think it is a  
5 dollar for some contracts, and you qualified and said not in  
6 all contracts?

7           MR. WILSON: That's correct.

8           MR. CUNNINGHAM: A dollar twenty-five an acre-foot for  
9 some of your contracts; then there was a supplemental  
10 delivery amount of, I think, three --

11          MR. WILSON: \$3.25.

12          MR. CUNNINGHAM: Can you tell me what that water is?  
13 What is the 3.25 supplement water?

14          MR. WILSON: The 3.25 supplemental water is an  
15 allocation of a -- secondary allocation of the supply from  
16 the project, and it represents a maximum of 2.17 acre-feet  
17 per acre.

18          MR. CUNNINGHAM: Now, if, hypothetically, I have a  
19 contract for 10,000 acre-feet of water; that is my contract  
20 for delivery from the agency, and I don't use all of it up  
21 by the end of the year, do I ever pay any of supplemental  
22 water fees?

23          MR. WILSON: Our contracts are take or pay.

24          MR. CUNNINGHAM: I am sorry, take or pay?

25          MR. WILSON: Correct.

1 MR. CUNNINGHAM: What does that mean?

2 MR. WILSON: It means you pay for water whether you  
3 take it or not.

4 MR. CUNNINGHAM: Well, let me back up, then. I must  
5 have misunderstood something here.

6 Going back to the first page just because it is handy;  
7 it is easy; it is on the top. And I don't mean to use  
8 Brophy Water District and South Yuba to their disadvantage,  
9 but they are the first people on the line.

10 When it says there for Brophy Water District and South  
11 Yuba Water District, 56,669 acre-feet were delivered, is  
12 that their total contract amount for that year?

13 MR. WILSON: No. It may be. Excuse me, I shouldn't  
14 answer that way. It may or may not be.

15 MR. CUNNINGHAM: But when you say take or pay, if my  
16 contract amount is for 10,000 and I only use 7,000, I have  
17 to pay for the full 10,000?

18 MR. WILSON: That is correct.

19 MR. CUNNINGHAM: If Brophy Water District and South  
20 Yuba Water District contract for 1987, for example, in this  
21 hypothetical was for 70- and they only used 56,669, did they  
22 pay for the full 70-?

23 MR. WILSON: Correct.

24 MR. CUNNINGHAM: To your knowledge, do we have anything  
25 in front of the Board right now that shows how much each of

1 these districts in any of these years paid for the water  
2 that was provided to them?

3 MR. WILSON: Not to my knowledge.

4 MR. CUNNINGHAM: Now, if I have it -- back to my first  
5 hypothetical of 10,000 acre-feet. If I use all of my  
6 10,000, do I pay any of the supplemental costs?

7 MR. WILSON: It depends on how much of your contract of  
8 that is base supply and how much is supplement. If your  
9 10,000 is your maximum allocation by the agency's allocation  
10 method, you would be paying for part at base price and part  
11 at supplemental.

12 MR. CUNNINGHAM: Is that a standard contractual  
13 arrangement that you have with all your districts?

14 MR. WILSON: Not all, but a number of them.

15 MR. CUNNINGHAM: To your knowledge, and I will ask this  
16 because I want to get it on the record. I think your answer  
17 is part of this.

18 There is no document presently before the Board that  
19 shows whether any of your current -- the amount any of your  
20 current customers have paid divided between their base rate  
21 and the supplemental rate; is that right?

22 MR. WILSON: Not to my knowledge.

23 MR. CUNNINGHAM: Then, as I understand it, there is a  
24 \$1.25 per acre-foot for operations and maintenance; is that  
25 correct?

1           MR. WILSON:  It varies, but the actual cost on the  
2 average, it's been running about \$1.60.

3           MR. CUNNINGHAM:  About \$1.60?

4           MR. WILSON:  1.60.

5           MR. CUNNINGHAM:  I kind of wanted to go to a little  
6 broader picture here.  Does the water agency have any  
7 indication, any documentation that you know of currently in  
8 the Board's records as to it is actual operational costs on  
9 an annual basis?

10          MR. WILSON:  We have an annual budget and we operate on  
11 a cost accounting system.

12          MR. CUNNINGHAM:  Have you submitted any of those  
13 budgets to the Board as far as your exhibits to this hearing?

14          MR. WILSON:  No.

15          MR. CUNNINGHAM:  You say -- let me ask you a little  
16 about your accounting practices, then.

17                 Does your budget -- how do you operate your budget?  
18 Are your operations and maintenance costs offset solely by  
19 the costs -- solely by the value of the water you sell?

20          MR. WILSON:  Can I give some clarification so I can  
21 give a proper answer?

22          MR. CUNNINGHAM:  Please.

23          MR. WILSON:  We account for several different  
24 activities in their own separate budgets.  And I think what  
25 you are asking is in regard to the operation of the

1 irrigation system.

2 MR. CUNNINGHAM: Yes.

3 MR. WILSON: In regard to that, yes.

4 MR. CUNNINGHAM: I am assuming that you operate in a  
5 manner in which the budget essentially balances every year,  
6 your total operations, maintenance costs for the irrigation  
7 portions of your activities is offset by your sales of water  
8 through those activities?

9 MR. WILSON: It is by our actual cost of operating the  
10 system divided by the amount of water contracted for.

11 MR. CUNNINGHAM: So, the cost of actual sale of each  
12 acre-feet of water is variable each year?

13 MR. WILSON: The water isn't, but the O&M charge to the  
14 contractor that it applies to is a variable.

15 MR. CUNNINGHAM: Does the agency maintain some kind of  
16 capital improvement account as well?

17 MR. WILSON: The water transfer fund for the funds that  
18 the agency has received in water transfers is a capital  
19 improvement fund.

20 MR. CUNNINGHAM: Do you have any other capital  
21 improvement fund other than funds funded by the water  
22 transfers?

23 MR. WILSON: No.

24 MR. CUNNINGHAM: When we are speaking about water  
25 transfers, let me make sure I understand this. We are

1 talking about out-of-basin transfers that you earlier  
2 identified?

3 MR. WILSON: The out-of -- not all of them are  
4 out-of-basin, but out-of-agency.

5 MR. CUNNINGHAM: So to clients and districts other  
6 than those you normally service?

7 MR. WILSON: That's correct.

8 MR. CUNNINGHAM: Mr. Wilson, to the extent the agency  
9 is looking at system alterations or modifications, for  
10 example raising the level of New Bullards Bar Dam, where  
11 would funding for such a project come from?

12 MR. WILSON: If Proposition 13 passes today, we hope  
13 that a portion of it would come from that.

14 MR. CUNNINGHAM: If it doesn't, where would those costs  
15 come from?

16 MR. WILSON: Probably won't happen.

17 MR. CUNNINGHAM: Does the agency have the power to  
18 bond?

19 MR. WILSON: We have the power to issue revenue bonds.

20 H.O. BROWN: Continue, Mr. Cunningham.

21 MR. CUNNINGHAM: Thank you.

22 Mr. Wilson, can you use revenue bonds to fund such a  
23 change or alteration in New Bullards Bar?

24 MR. WILSON: If we can justify a source of revenue to  
25 repay the bonds, out of that activity, we could.

1           MR. CUNNINGHAM: Does the agency also have the ability  
2 to change the costs of water you sell to your member  
3 districts?

4           MR. WILSON: By the contracts we are allowed to no  
5 oftener, no more frequent, than five years to increase them,  
6 the cost that the Consumer Price Index increased during that  
7 period.

8           MR. CUNNINGHAM: Have you given any thoughts to the  
9 potentiality of funding an alteration of New Bullards Bar by  
10 changing the pricing of your water through its deliveries?

11          MR. WILSON: With the amount of revenue that that would  
12 provide, we wouldn't do much improvement.

13          MR. CUNNINGHAM: How long do those water contracts on  
14 the average last?

15          MR. WILSON: These go till 2016 and with renewable  
16 options.

17          MR. CUNNINGHAM: Do you understand that the agency has  
18 the power in 2016 to renegotiate those contracts?

19          MR. WILSON: Yes. But the provision is that the  
20 pricing mechanism remains the same.

21          MR. CUNNINGHAM: Does the pricing mechanism for water  
22 as delivered by the water agency include any funding for  
23 capital improvement?

24          MR. WILSON: No.

25          MR. CUNNINGHAM: To your own best understanding of how

1 the Yuba County Water Agency is supposed to operate, how is  
2 the agency supposed to fund capital improvements other than  
3 a bond, a general public bond, or gift of the Legislature?

4 MR. WILSON: That's about the extent of it.

5 MR. CUNNINGHAM: Mr. Wilson, moving to a slightly  
6 different subject, if I might, I am going to -- again,  
7 excuse me for bouncing around. Hopefully, it all sounds  
8 kind of logical.

9 Mr. Wilson, in looking at your testimony, in those last  
10 three pages of your testimony, I know you answered lots of  
11 questions about the water transfer fund contribution. I  
12 believe it is Attachment 5 to your testimony, three pages.

13 MR. WILSON: I have that.

14 MR. CUNNINGHAM: I would like to ask general questions  
15 about those. Again, this water transfer contribution is, as  
16 we mentioned earlier, water funds that have come from  
17 noncustomer sales in-basin or out-of-basin?

18 MR. WILSON: That's correct.

19 MR. CUNNINGHAM: Can you tell me -- I see some total  
20 numbers, but can you tell me what kind of time period I am  
21 looking at. Is this just 1999 budget?

22 MR. WILSON: 1987 to current.

23 MR. CUNNINGHAM: This is almost a 12-year accumulation?

24 MR. WILSON: Correct.

25 MR. CUNNINGHAM: How many times in that 12 years has

1 the agency actually participated in water transfers that  
2 will be reflected in this sum?

3 MR. WILSON: Just a second. I believe it is 15, but I  
4 can get the number for you.

5 MR. CUNNINGHAM: Would you, please.

6 MR. WILSON: Fifteen.

7 MR. CUNNINGHAM: I have to remember my own question,  
8 sorry.

9 That is 15 times in the last 12 years?

10 MR. WILSON: Including 1987 to the present.

11 MR. CUNNINGHAM: That more accurately reflects the  
12 statement. You just put it away; I'm sorry.

13 Can you tell me the specific years that this happened,  
14 please?

15 MR. WILSON: In 1987, there was one transfer. In 1988,  
16 there were two. In 1989, there were four. In 1990, there  
17 were three. In 1991, there were three. In 1992, there was  
18 one. In 1997, there were two.

19 MR. CUNNINGHAM: Thank you.

20 I am assuming when these water transfers take place  
21 that the water being transferred are waters in excess of  
22 those needed by your customers; is that correct?

23 MR. WILSON: For that specific time period, for that  
24 period, yes.

25 MR. CUNNINGHAM: When your -- let me make sure I get

1 the phrasing right. When the agency has its full  
2 development level of diversion, a concept I think that you  
3 also referenced in your Exhibit 15A, when you are at full  
4 development of diversion, will you still have water left for  
5 these kinds of transfers? When I say these kinds, the kinds  
6 we have just been discussing.

7 MR. WILSON: It depends on the decision of State Water  
8 Resources Control Board.

9 MR. CUNNINGHAM: If we were to assume that this Board  
10 makes no changes at all to your current operational  
11 restrictions, upon full development level of diversion, will  
12 you have water available for delivery to your  
13 nonstandardized customers, your out-of-basin or  
14 nonestablished districts?

15 MR. WILSON: In some years.

16 MR. CUNNINGHAM: Do you have any idea about how many of  
17 those kinds of years would be there? There would be some  
18 years. Do you have any idea how much? I will take even a  
19 gross estimate.

20 MR. WILSON: I am trying to figure. I am trying to  
21 reflect on my memory on the numbers of dry years in the  
22 periods.

23 Probably 60 percent of the time it would be some water  
24 available.

25 MR. CUNNINGHAM: I will ask this and my guess is you

1 might not know.

2 Do you have any idea how much water on average would be  
3 available in those years for sale for transfer out of the  
4 basin to nonestablished customers?

5 MR. WILSON: Probably in the range of 60,000  
6 acre-feet.

7 MR. CUNNINGHAM: Actually, while I have myself looking  
8 at your Exhibit 15A, Mr. Wilson, if I could have you take a  
9 look at that first page, and on that first page, I think it  
10 is Page 10 of the Bookman-Edmonston Engineering study --

11 H.O. BROWN: What is the exhibit number?

12 MR. CUNNINGHAM: 15A, Mr. Brown. It is one of two that  
13 I think actually reflects a cleanup or clarification that  
14 Mr. Lilly identified earlier. I will just do this as a  
15 talking point, Mr. Wilson. If I could have you take a look  
16 at that, about the middle of that first page it says Table  
17 8, Present Level of Diversion Requirement. And I see some  
18 totals all the way over in the far right-hand column.

19 It is my understanding that those totals reflect -- can  
20 you tell me what do those totals actually reflect there in  
21 Table 8 on the far right-hand side?

22 MR. WILSON: It is my understanding that these reflect  
23 applying Department of Water Resources criteria for water  
24 -- applied water needs for various crops applied to the  
25 crops within our service area.

1           MR. CUNNINGHAM: So this number, either one of these  
2 two numbers -- I see there are two different numbers there.  
3 You will excuse me if I just refer to them as this number.  
4 There is 311,081. I assume it is acre-feet number. And  
5 then there is 305,298 number.

6           MR. WILSON: Correct.

7           MR. CUNNINGHAM: Either one of those numbers -- that  
8 doesn't reflect your present level of contract for delivery,  
9 does it?

10          MR. WILSON: It does not. Our contracts are above  
11 that.

12          MR. CUNNINGHAM: To your knowledge, do either of these  
13 numbers actually reflect deliveries in any one year that  
14 have actually been made by the agency?

15          MR. WILSON: Probably not.

16          MR. CUNNINGHAM: In fact, if I go back to the previous  
17 exhibit that we were looking at, Exhibit 27, I think you  
18 actually in Exhibit 27 at the bottom of each of those pages  
19 have a total delivered amount. Then actually there is a  
20 total on the far lower right-hand corner, which I assume  
21 means that is all of the water that is delivered for  
22 whatever purposes each of those years; is that correct?

23          MR. WILSON: Correct.

24          MR. CUNNINGHAM: So, numbers like 252,805 for 1987 and  
25 226,752 for 1988, and so forth and so on were the actual

1 amounts delivered, to your knowledge, by the agency during  
2 those years?

3 MR. WILSON: Correct.

4 MR. CUNNINGHAM: To the extent that you can tell me  
5 that contract amounts were larger than that, where did the  
6 extra water go? If you have a contract to deliver a total  
7 of over 300,000 acre-feet and you've only delivered 252,000  
8 acre-feet, where does the rest of the water go?

9 MR. WILSON: It remains in the system.

10 MR. CUNNINGHAM: To your knowledge, in any of the years  
11 the agency has ever operated, starting from its inception in  
12 1970 or at least as far as delivery out of New Bullards Bar,  
13 has the agency ever delivered, actually delivered, 305,298  
14 acre-feet of water?

15 MR. WILSON: No.

16 MR. CUNNINGHAM: Have you ever delivered any amount  
17 approximately that large?

18 MR. WILSON: An approximation, I need an idea of an  
19 approximation.

20 MR. CUNNINGHAM: Have you ever delivered over 300,000  
21 acre-feet of water?

22 MR. WILSON: Yes.

23 MR. CUNNINGHAM: How many times?

24 MR. WILSON: Once.

25 MR. CUNNINGHAM: What year?

1 MR. WILSON: 1999.

2 MR. CUNNINGHAM: And in 1999 we are talking about  
3 301,554 acre-feet of water?

4 MR. WILSON: Correct.

5 MR. CUNNINGHAM: I am going to start skipping around a  
6 little more. Mr. Wilson, to the extent we talked about  
7 water transfers, you told me there have been a total of 15  
8 from 1987 to 1999. Is there a document somewhere within the  
9 Board's record or submittals of the agency to this Board for  
10 this hearing that identifies who was the actual recipient of  
11 each of those transfers?

12 MR. WILSON: Yes.

13 MR. CUNNINGHAM: Which exhibit is that, please?

14 MR. WILSON: It's Exhibit S-YCWA-13, Page 8.

15 MR. CUNNINGHAM: Thank you.

16 Mr. Brown, I appreciate you bearing with me. I will  
17 try to keep moving along as quickly as possible. I ask your  
18 greatest indulgence.

19 H.O. BROWN: Proceed, Mr. Cunningham.

20 MR. CUNNINGHAM: I am losing track when the lights go  
21 off. I will ask every so often, if you don't like what I am  
22 doing you can tell me to stop.

23 H.O. BROWN: You just look at me. If I look nervous,  
24 then you can be nervous.

25 MR. CUNNINGHAM: Sometimes I don't look up and

1 sometimes I don't have my glasses on.

2 Mr. Wilson, I apologize as well. We will try to forge  
3 ahead here.

4 I would like to ask you just a couple brief questions.  
5 I know you talked about earlier, it is my understanding that  
6 the Yuba County Water Agency has actually adopted a  
7 agricultural management program; is that correct?

8 MR. WILSON: To my recollection I believe we did.

9 MR. CUNNINGHAM: That is pursuant to statute, isn't  
10 it?

11 MR. WILSON: There was a requirement of some nature.  
12 Whether it was by statute, I am not sure.

13 MR. CUNNINGHAM: Are you familiar at all with the terms  
14 of the water management program?

15 MR. WILSON: It has been a long time since I reviewed  
16 it.

17 MR. CUNNINGHAM: Are you familiar with the fact that  
18 the program may suggest that agencies should examine a  
19 variety of activities, water use activities, looking for  
20 ways to more efficiently use their water?

21 MR. WILSON: I believe I recall that that is in there.

22 MR. CUNNINGHAM: To your knowledge, has the Yuba County  
23 Water Agency done such an examination of its water use  
24 activities looking for more efficient ways to use its  
25 water?



1       doubt if we will need three more.  There is an outside  
2       possibility we may finish Thursday, but it is looking a  
3       little slim.

4               MR. CUNNINGHAM:  I'm sorry, Mr. Mona, it was the 3rd,  
5       4th and the --

6               MR. MONA:  The 19th.

7               MR. CUNNINGHAM:  And you get two out of three or do we  
8       get a choice?

9               MR. MONA:  Based on Mr. Brown's schedule, those are the  
10       three dates available in the near future.

11              H.O. BROWN:  Is there any other business that needs to  
12       be discussed while Mr. Wilson is looking for the other  
13       information from any of the participants?

14              MR. CUNNINGHAM:  Mr. Brown, I was just checking with  
15       Mr. McKeon.  I think we promised Board staff last week, two  
16       weeks ago, that we would make available as an exhibit for  
17       the Board a copy of a study prepared by Cech and Myrik.  
18       We'll have copies by the end of business today for  
19       distribution.  I think that was identified as staff exhibit,  
20       maybe one of ours.  My apologies for not getting to that  
21       sooner.

22              MR. WILSON:  It's going to take me a little longer  
23       than I anticipated.  The section I am looking for wasn't  
24       where I thought it was.  It will take an extensive amount of  
25       reading to find it.

1 H.O. BROWN: We will take a five-minute break.

2 (Break taken.)

3 H.O. BROWN: Back on the record.

4 Mr. Wilson, did you find it?

5 MR. WILSON: I found one of the references. The one I  
6 did not find, going to take more reading than five minutes  
7 will allow.

8 H.O. BROWN: All right.

9 Mr. Cunningham.

10 MR. CUNNINGHAM: You want me to reask the question, Mr.  
11 Brown, or -- I think this was a look on behalf of a question  
12 I was asking.

13 H.O. BROWN: It would help all of us if you do that, to  
14 know which one he found and which one he was not able to.

15 MR. CUNNINGHAM: Mr. Wilson, I think my question in  
16 essence went to whether or not you knew of any provision  
17 within the Yuba County Water Agency Act that is specifically  
18 identified Yuba County Water Agency as nothing but a  
19 wholesaler of water and also suggested that the agency was  
20 not empowered to implement water conservation measures. You  
21 said you were going to look to see if you could find those.

22 Did you find those?

23 MR. WILSON: In regard to the provision of wholesale  
24 only, I did not find that provision. I know it is here  
25 because it has been an issue that has come up from time to

1 time, and we have discussed it with counsel. It is here.  
2 But in five minutes I was not able to do enough reading to  
3 pull that out.

4 In regard to the second part of your question on  
5 Section 84-22, Section 22, I believe that limits our ability  
6 to impose actions on other districts.

7 MR. CUNNINGHAM: Mr. Wilson, to the extent that you  
8 have looked at Section 84-22, and I believe it is titled  
9 Effect Upon Municipalities, Districts or Other Agencies, can  
10 I also refer your attention then to Section 84-4.3, and  
11 specifically to the portion where it reads that the agency  
12 shall have the power to, and I will skip through for the  
13 reporter's benefit, to conserve and reclaim water for  
14 present and future use within the agency, and that it shall  
15 then further, quote, appropriate and acquire water and  
16 rights, I will skip down a ways, to commence, maintain,  
17 intervene in, defend or compromise in the name of the agency  
18 and on behalf of the landowners there or otherwise, skip  
19 down a ways here, actions involving a wasteful use of water  
20 therein or to prevent interference with or diminution of or  
21 to declare rights in the natural flow of any stream or  
22 surface or subterranean supply of waters.

23 THE COURT REPORTER: I'm losing you.

24 H.O. BROWN: If you speak just a little slower.

25 MR. CUNNINGHAM: I will keep slowing down. It is

1       difficult when I am quoting.

2               You get most of that?

3               Mr. Wilson, can I draw your attention to that language,  
4       and can you tell me does that language, in your own opinion,  
5       not legal, in your opinion, authorize or not authorize you  
6       to take actions on behalf of conservation of water?

7               MR. LILLY: I am going to object. It calls for legal  
8       opinion and/or conclusion.

9               H.O. BROWN: Are you asking for a legal conclusion?

10              MR. CUNNINGHAM: I specifically said I asked for his  
11      own personal opinion.

12              MR. WILSON: I would need some time to read it, and  
13      with your rate of speaking I was not taking it all as being  
14      delivered. And before I can answer you, honestly, I would  
15      want to read this.

16              MR. CUNNINGHAM: To the extent you have that section in  
17      front of you, Mr. Wilson, can I have you read the first --  
18      essentially the first three lines of that section?

19              MR. WILSON: The agency shall have the power  
20                      to store in surface or underground  
21                      reservoirs within or outside of the  
22                      agency for the common benefit of the  
23                      agency; to conserve and reclaim water  
24                      for present and future uses within the  
25                      agency.                      (Reading.)

1 MR. CUNNINGHAM: That is far enough.

2 It is my understanding, though, Mr. Wilson, that the  
3 agency, to your knowledge, has never actually developed any  
4 plans for the conservation of use of water within the agency?

5 MR. WILSON: When we built Bullards Bar Dam, we did  
6 that.

7 MR. CUNNINGHAM: Have you done anything since?

8 MR. WILSON: We have funded a number of projects for  
9 the purpose of conservation of water.

10 MR. CUNNINGHAM: These would be projects where you are  
11 talking about lining a ditch?

12 MR. WILSON: Lining a ditch, piping a ditch, replacing  
13 leaky pipelines, replacing leaky water storage tanks.

14 MR. CUNNINGHAM: Have you done any studies to explore  
15 additional means of improving the efficiency or effective  
16 use of water for the agency?

17 MR. WILSON: Yes.

18 MR. CUNNINGHAM: Can you describe those projects or  
19 studies?

20 MR. WILSON: In general terms, I cannot identify study  
21 or studies.

22 MR. CUNNINGHAM: As to -- after looking at that, I  
23 would like to go back and take a look at your water  
24 management, agriculture water management program, I have a  
25 copy of that. I understand you are not very familiar with

1 it.

2 Are you familiar with the fact that among other things  
3 the agency's own water management program discusses such  
4 things as groundwater pumping, recharge and overdraft as a  
5 way of dealing with water supplies?

6 MR. WILSON: I believe there are provisions to that  
7 effect in there.

8 MR. CUNNINGHAM: Also, there are provisions here  
9 discussing the use of cost of water as a way of improving  
10 efficient use of water?

11 MR. WILSON: That's probably in there.

12 MR. CUNNINGHAM: And that we can also look at such  
13 things as crop yields and cumulative environmental impacts  
14 and looking at ways to improve the efficiency of the  
15 agency's use of water?

16 MR. WILSON: I don't recall that.

17 MR. CUNNINGHAM: Earlier you indicated that -- I want  
18 to make sure I really get this right -- the agency has no  
19 ability to gain revenues from its customers for future  
20 capital outlays above and beyond a modification for cost of  
21 living; is that correct?

22 MR. WILSON: Could you restate the question? I believe  
23 there was comment in there that was not correct. I want to  
24 make sure.

25 MR. CUNNINGHAM: It is my understanding what you

1 previously testified to, that the agency has no ability to  
2 change the billing -- I will rephrase -- change the billing  
3 costs of water deliveries to its customers in a manner that  
4 would allow them to accumulate funds for a capital  
5 improvement account, that aside from the changes you  
6 suggested that could be made for cost of living increases?

7 MR. WILSON: The water delivery contracts have no  
8 provisions in them for capital improvements. I was not  
9 party to the drafting of the original contracts, which all  
10 the others have been patterned after, so I do not know why.

11 MR. CUNNINGHAM: Do you know if there is any specific  
12 prohibition in your Yuba County Water Agency Act that says  
13 that you cannot put in place terms for accrual of capital  
14 sums?

15 MR. WILSON: It's pretty difficult to go back and amend  
16 a contract, understand, unless you have the consent of both  
17 parties. If both parties consented, I would imagine you can  
18 do that.

19 MR. CUNNINGHAM: I think you said in 2016 these  
20 contracts would all be up for renegotiations?

21 MR. WILSON: They are up for renewal, not  
22 renegotiation. If the party making -- contracting for the  
23 water chose to renew, they have the option to do so.

24 MR. CUNNINGHAM: They can renew at --

25 MR. WILSON: Current conditions of the contract with

1 the current pricing conditions.

2 MR. CUNNINGHAM: Are you telling me in the year 2016  
3 every one of your member districts can renew their contracts  
4 for exactly the same amount and cost of water that they are  
5 currently paying for?

6 MR. WILSON: No. The contracts have a provision for  
7 increase in cost each five years to the amount of the  
8 increase in the cost of living increased during that  
9 period.

10 MR. CUNNINGHAM: If I were to assume there was no cost  
11 of living increase, I know this is a broad assumption,  
12 between now and the year 2016, in 2016 every one of your  
13 member districts would be able to come back and renegotiate  
14 their contract for exactly the same price of water that they  
15 are currently receiving?

16 MR. WILSON: It is not a negotiation. There is a  
17 provision that they can renew it if they choose to do so at  
18 that cost.

19 MR. CUNNINGHAM: That cost -- is that cost fixed to the  
20 point where you have no ability to say it will no longer  
21 cover the cost of the agency?

22 MR. WILSON: That is my understanding.

23 MR. CUNNINGHAM: Is that written someplace in those  
24 contracts?

25 MR. WILSON: Could you repeat the premise as to --

1           MR. CUNNINGHAM: Is that restriction on the agency's  
2 ability to alter delivery costs written into the contracts  
3 so that --

4           MR. WILSON: Yes.

5           MR. CUNNINGHAM: Are any of those contracts currently  
6 in any of your exhibits presented to the Board?

7           MR. WILSON: Not to my knowledge.

8           MR. CUNNINGHAM: Mr. Wilson, if this Board imposes  
9 conditions upon Yuba County Water Agency's water uses that  
10 reduce or perhaps even eliminate out-of-basin transfers and  
11 other water transfers to nonagency districts, how does the  
12 agency plan on acquiring funds for any capital expenditures,  
13 improvements or expansions?

14          MR. WILSON: We probably won't do any.

15          MR. CUNNINGHAM: That is for the entire life of the  
16 project, no matter how long the agency exists?

17          MR. WILSON: Until they can find a way to fund them.

18          MR. CUNNINGHAM: Has any of the funds that have been  
19 made available through the past water transfers ever been  
20 put in a capital improvement account?

21          MR. WILSON: That is basically what the water transfer  
22 fund is, yes.

23          MR. CUNNINGHAM: Are those funds fully expended as of  
24 present?

25          MR. WILSON: They are all -- they are not expended, but

1 they are overcommitted.

2 MR. CUNNINGHAM: If we get no more water transfers, the  
3 agency has no ability to do any ditch lining or flood levee  
4 improvement or anything else; is that correct?

5 MR. WILSON: There are some commitments that the Board  
6 has made to do some of those things. To the degree the  
7 commitments have been made, yes, but beyond that, no.

8 MR. CUNNINGHAM: Where does -- you do have another  
9 source of revenue. Where does the revenues from the PG&E  
10 power delivery contract go?

11 MR. WILSON: That goes to repay the project revenue  
12 bonds that pay for the project, and the additional amount of  
13 that is to pay for the operation and maintenance cost of the  
14 hydroelectric facility.

15 MR. CUNNINGHAM: Was Yuba County Water Agency or the  
16 Yuba County Project paid for solely by bonds issued by Yuba  
17 County Water Agency?

18 MR. WILSON: No. There were some small contributions  
19 by the federal and state government.

20 MR. CUNNINGHAM: When you say "small," were they less  
21 than half of the cost of the project?

22 MR. WILSON: Very substantially less.

23 MR. CUNNINGHAM: What is the payment term for the bond  
24 currently outstanding for the Yuba County Water Project?

25 MR. LILLY: Mr. Brown, I know we have limited time.

1 This was all covered in 1992. Nothing has changed since  
2 1992. I object on the ground that this is cumulative  
3 questioning.

4 H.O. BROWN: Mr. Cunningham.

5 MR. CUNNINGHAM: I put it quite the opposite. We have  
6 received substantial testimony indicating that things like  
7 water transfers are significant source of revenue, that  
8 power sales are significant source of revenue. And I am  
9 merely trying to explore in the time we have been told is  
10 new time, from 1992 to the present. We have heard lots of  
11 testimony about the new sources of revenue. I am trying to  
12 figure out how much is still an outstanding debt for this  
13 same agency.

14 We are being given an incredible story of doom and  
15 gloom when all this money dries up. And I would like to  
16 find out how valid that doom and gloom picture is. I do  
17 think it is relevant. I think it is highly relevant.

18 H.O. BROWN: Go ahead, Mr. Cunningham.

19 MR. WILSON: If you have a question, could you repeat  
20 it, please?

21 MR. CUNNINGHAM: To the extent there is an outstanding  
22 sum on the bonds originally created for construction of Yuba  
23 County Project, can you tell me the actual term of the bond?  
24 Is it a 50-year bond?

25 MR. WILSON: That is correct, goes to 2016. There are

1 multiple bonds, but they all have a 2016 dead date.

2 MR. CUNNINGHAM: You are currently for paying that bond  
3 off at 2016?

4 MR. WILSON: Yes, we are.

5 MR. CUNNINGHAM: After 2016 what would be the uses of  
6 any hydropower revenues generated by the project?

7 MR. WILSON: If Yuba County Water Agency is able to  
8 renew its Federal Energy Regulatory Commission license from  
9 the project, then all of the generating revenues would come  
10 to Yuba County Water Agency.

11 MR. CUNNINGHAM: Real quick, I will try to get to  
12 something else. Again, looking at your testimony, Mr.  
13 Wilson. I have to find it.

14 Looking at your testimony, Mr. Wilson, that Exhibit 5  
15 attached again to your testimony, Pages 1 through 3, the  
16 water transfer fund distribution, I guess we can call it. I  
17 see for example that a couple of relatively large  
18 expenditures exist for flood control projects.

19 Does the Yuba County Water Agency have a mandatory  
20 responsibility, a must pay responsibility, for flood control  
21 projects within its agency area?

22 MR. WILSON: No.

23 MR. CUNNINGHAM: I see in your testimony you also talk  
24 about an upcoming \$30,000,000 amount that is going to be  
25 attached to a Yuba-Feather Flood Control Improvement.

1           Does Yuba County Water Agency have a mandate to fund  
2 that \$30,000,000 sum?

3           MR. WILSON: No, they don't.

4           MR. CUNNINGHAM: In fact, to your knowledge, is that  
5 obligation an obligation of Yuba County and not of the Yuba  
6 County Water Agency?

7           MR. WILSON: I am not sure whether that's a county  
8 obligation or not.

9           MR. CUNNINGHAM: Well, you testified in your testimony  
10 that at least a paragraph's length about this Prop 13 bond,  
11 and there will be a need for a cost share. I think you said  
12 then local share of 30,000,000 will be required before the  
13 70,000,000 in bond money may be used.

14           Who has the primary obligation for coming up with that  
15 local share of \$30,000,000?

16           MR. WILSON: The local entity.

17           MR. CUNNINGHAM: Local entity being Yuba County?

18           MR. WILSON: It could be any source within the local  
19 area that is not state or federal.

20           MR. CUNNINGHAM: The agency itself has no mandate to  
21 generate that sum?

22           MR. WILSON: Other than the desire to save lives in the  
23 county.

24           MR. CUNNINGHAM: Where is the desire to save lives in  
25 the county in your part of your Yuba County Water Agency

1 mandate?

2 MR. WILSON: It is not there anywhere.

3 MR. CUNNINGHAM: This is just a good social purpose?

4 MR. WILSON: Excuse me, I didn't hear.

5 MR. CUNNINGHAM: Is this a good social purpose, in your  
6 opinion?

7 MR. WILSON: It is a need that exists and nobody has  
8 been able to find another way to find the funds.

9 MR. CUNNINGHAM: Very quick, Mr. Brown, I am down to my  
10 last question.

11 I am going to ask you a few questions hit or miss  
12 through your testimony. Mr. Wilson, if you'd please turn to  
13 Page 7 of your testimony. The first full paragraph of your  
14 testimony there you are talking about the effects of the  
15 draft order. And you make a conclusion that says, quote,  
16 this is about four lines up from the bottom of that first  
17 full paragraph:

18 This could result in a large penalty for not  
19 producing an energy quantity bid, as well as  
20 significant losses from missing high market  
21 opportunities. (Reading.)

22 I've got a question for you on that.

23 MR. WILSON: I am still searching for --

24 MR. CUNNINGHAM: The full paragraph at the top of Page  
25 7, first full paragraph. The word starts with third.

1 MR. WILSON: I have that.

2 MR. CUNNINGHAM: If you will go up about four lines  
3 from the bottom of that paragraph, the lines start with a  
4 head bidding process.

5 MR. WILSON: Okay.

6 MR. CUNNINGHAM: You make a conclusion that this could  
7 result in a large penalty?

8 MR. WILSON: Correct.

9 MR. CUNNINGHAM: As well as significant losses?

10 MR. WILSON: Correct.

11 MR. CUNNINGHAM: We earlier listened to testimony from  
12 Yuba County Water Agency that suggests that during the  
13 spring and early summer there is little or no market  
14 opportunity for short-term ability to produce a day ahead  
15 bidding kind of production.

16 How could you conclude that during the period of time  
17 when there are high uncontrolled flows from the Middle and  
18 South Yuba River there will be significant losses from high  
19 market opportunities? Do you know when something about when  
20 the South and Middle Yuba Rivers have high uncontrolled  
21 flows that I don't?

22 MR. WILSON: I have no idea what you know about high  
23 and low flows in the Yuba River.

24 MR. CUNNINGHAM: Don't they normally occur during the  
25 winter and spring months, starting perhaps from someplace in

1 December through perhaps April or May?

2 MR. WILSON: Correct.

3 MR. CUNNINGHAM: Aren't the times when you can get the  
4 most money for essentially immediate on-line production of  
5 electricity in months like July and August when the market  
6 differential is so high?

7 MR. WILSON: That is often the case, but not  
8 always.

9 MR. CUNNINGHAM: How do you conclude, then, that there  
10 will be a large penalty and significant losses?

11 MR. WILSON: If you bid your power and you do not  
12 produce that power, there is a large penalty. If we bid  
13 power and there were fluctuations in the other streams and  
14 we had to curtail the generation, the releases through  
15 Colgate to not cause fluctuations as downstream because of  
16 fluctuations in the other streams that we had no control of,  
17 and we did not -- because of curtailing the flows, we did  
18 not meet the quota that he had bid the day before, there  
19 would be a large penalty.

20 MR. CUNNINGHAM: Then do you have any idea how often  
21 these events would occur?

22 MR. WILSON: No.

23 MR. CUNNINGHAM: Any idea how large a penalty you would  
24 incur?

25 MR. WILSON: I have not personally been involved with

1 that. Talking to the PG&E dispatch power broker people, it  
2 is whatever the cost of that power is to acquire somewhere  
3 else in the system. So it depends on what the market price  
4 is and could be up as high as several hundred dollars a  
5 megawatt.

6 MR. CUNNINGHAM: I am sorry, that didn't answer my  
7 question. I thought I had asked whether you knew about how  
8 large this penalty would be or how significant this loss  
9 would be.

10 Do you personally know how large this --

11 MR. WILSON: I do not. Just from what the power  
12 brokers within the PG&E system have told me.

13 MR. CUNNINGHAM: To your knowledge, has any study been  
14 done to establish these losses and this penalty for the  
15 specific times when there would be large, I believe the  
16 phrase is, high uncontrolled inflows from the Middle and  
17 South Yuba Rivers?

18 MR. WILSON: No.

19 H.O. BROWN: How much more time do you need, Mr.  
20 Cunningham?

21 MR. CUNNINGHAM: I can honestly say about two minutes,  
22 Mr. Brown.

23 I would like to call your attention, Mr. Wilson, to  
24 Page 12 of your testimony. You made some statements here,  
25 and I just wanted to see if I could find the sources for

1 those, please.

2 MR. WILSON: Okay.

3 MR. CUNNINGHAM: The second paragraph, right in the  
4 middle of the page.

5 These extremely poor economic conditions continue to  
6 exist in Yuba County today despite the recent economic boon.

7 Can you tell me what the source of that is?

8 MR. WILSON: That is drawn from the high unemployment  
9 rates and the low per capita income.

10 MR. CUNNINGHAM: This is your conclusion based upon  
11 that information; is that correct?

12 MR. WILSON: Mr. Morawczinski made those conclusions in  
13 1992, and conditions have not changed of any significance to  
14 change conditions, so, yes, that is my conclusion.

15 MR. CUNNINGHAM: When you say "conditions have not  
16 changed," do you know this to your personal knowledge?

17 MR. WILSON: From reviewing the unemployment rates and  
18 from reviewing the per capita income and the rates of  
19 welfare, that is the extent of my knowledge.

20 MR. CUNNINGHAM: Going to Page 13 of your testimony,  
21 first full paragraph at the top. Your first  
22 sentence:

23 A significant indicator showing the decline  
24 in the County's economic health is the recent  
25 decline in population. (Reading.)

1           You see that?

2           MR. WILSON:   Yes.

3           MR. CUNNINGHAM:  Do you see, though, about halfway down  
4   that paragraph you have a quotation that says:

5                   The single biggest factor in the population  
6                   decline in Yuba County was probably the  
7                   lingering effects of the flooding, the  
8                   property damage and the economic hardship  
9                   created by that.  (Reading.)

10          MR. WILSON:  Correct.

11          MR. CUNNINGHAM:  Do you find that subsequent quotation  
12   is a support for your lead-in sentence?

13          MR. WILSON:  The lead-in in that paragraph?

14          MR. CUNNINGHAM:  The lead-in in that paragraph says the  
15   reason for decline is the decline of the county's economic  
16   health.  The source you cite talks about the decline was a  
17   lingering effect of flooding, property damage and economic  
18   hardships created by the flooding and property damage.

19          MR. WILSON:  That is one of the factors in the  
20   continued decline of the economic health.

21          MR. CUNNINGHAM:  Do you know of any other factors  
22   contributing to the decline of the economic health?

23          MR. WILSON:  The limited employment opportunities.

24          MR. CUNNINGHAM:  Know of those of your own personal  
25   knowledge?

1 MR. WILSON: From the high rate of unemployment figures  
2 from the Department of Labor.

3 MR. CUNNINGHAM: Those are numbers you have read?

4 MR. WILSON: Those are numbers that I have read.

5 MR. CUNNINGHAM: I have no further questions.

6 Mr. Wilson, thank you very much for your patience. Mr.  
7 Lilly, as well.

8 Thank you, Mr. Brown.

9 H.O. BROWN: Staff.

10 MR. FRINK: Staff does have some questions.

11 ---oOo---

12 CROSS-EXAMINATION OF YUBA COUNTY WATER AGENCY

13 BY STAFF

14 MR. FRINK: Mr. Wilson, you explained earlier that in  
15 order to avoid violating the FERC instream flow requirements  
16 that Yuba County Water Agency releases an operational buffer  
17 of 2.5 percent of the minimum required flows, plus an  
18 additional five cfs?

19 MR. WILSON: That is a general rule we try to use,  
20 yes.

21 MR. FRINK: Then in the instream flow proposal that was  
22 discussed earlier from Yuba County Water Agency you  
23 specified instream flow requirements are to be met on the  
24 basis of a five-day running average with the instantaneous  
25 flow at never less than 90 percent of the required flow?

1 MR. WILSON: That would be what we would like to see.

2 MR. FRINK: In Yuba's modeling of the Draft Decision  
3 flows did you apply the same type of buffer there that you  
4 have applied in your modeling of meeting the FERC flows?

5 MR. WILSON: I do not know that. I am not sure.

6 MR. FRINK: Would Mr. Grinnell be the one to ask on  
7 that most likely?

8 MR. WILSON: Mr. Grinnell should know that.

9 MR. FRINK: I'm interested in the figures that are  
10 shown on historical water diversions in Exhibit S-YCWA-15  
11 and 15A. At our request you reviewed the historical  
12 diversion figures and revised the numbers for historical  
13 diversions that were shown in Exhibit S-YCWA-15. Looking at  
14 the number for average annual diversions that are shown in  
15 that exhibit, if we look at Exhibit 15A, the numbers for  
16 average annual diversions for the period of 1987 through  
17 1999 are 259,191 acre-feet. And your previous exhibit,  
18 Exhibit 15, showed average annual diversions for the period  
19 1987 through 1998 of 277,967 acre-feet.

20 Can you explain why the historical flow figures were  
21 revised downward approximately 18- or 19,000 acre-feet?

22 MR. WILSON: It was explained to me that in the  
23 computer spreadsheet that was used that some of the  
24 waterfowl water got accounted for more than once.

25 MR. FRINK: Was the amount of water that was involved

1 in water transfers a factor in revision of your historical  
2 diversion numbers?

3 MR. WILSON: That is my understanding that it was --  
4 that was what was explained to me as the -- where the  
5 difference came from is the way they had their spreadsheet  
6 laid out on the computer. The cells they were pulling from  
7 pulled the waterfowl habitat, accounted for it more than  
8 once.

9 Excuse me, I wasn't listening. You said water  
10 transfers. No, no water, transfer water, was ever reflected  
11 in the incorrect numbers or the correct numbers.

12 MR. FRINK: Looking at historical average diversion  
13 demand figures for below normal, dry and critical years in  
14 the revised exhibit, Exhibit 15A, that gives a figure of  
15 258,507 acre-feet for those years. Now, moving over in the  
16 column on your Exhibit 15A, the estimated average annual  
17 diversion demand for those years is shown at 311,081  
18 acre-feet. That is approximately -- that is 52,574  
19 acre-feet more than the historic demand numbers.

20 Can you explain why your estimated present demand  
21 numbers for below normal, dry and critical years are more  
22 than 25 percent greater than the recent historical  
23 diversions in those years?

24 MR. WILSON: The estimated diversion was based on  
25 Department of Water Resources crops applied water criteria,

1 and this was applied to the cropping within the agency  
2 service area. And so it came up with a different number  
3 than what's actually been the historical applied number,  
4 which indicates to me there is some pretty good conservation  
5 going on.

6 MR. FRINK: If we wanted to get an idea of the amount  
7 of water actually diverted in below normal, critical and dry  
8 years, would you agree we should look at the actual numbers  
9 for the amount of water that has been diverted?

10 MR. LILLY: I am going to object. The question is  
11 unclear as to what purpose Mr. Frink is asking that this be  
12 done for. I think it makes a difference because future is  
13 likely to be different than the past.

14 H.O. BROWN: Can you explain?

15 MR. FRINK: Yes, Mr. Brown.

16 I am not at all interested in the future right now. If  
17 I wanted to know what the present water demand of the Yuba  
18 County Water Agency is for dry, below normal and critical  
19 years, would you suggest that I look at the amount of water  
20 that has recently been diverted in below normal, dry and  
21 critical years or that I look at an estimated number based  
22 on theoretical acreages?

23 MR. MINASIAN: I object to the question. It is unclear  
24 unless we carve out the request by the State of California  
25 that the farmers in Yuba County in '91 and '92 and '94 pump

1 groundwater to help out the state crisis in this diversion  
2 figure.

3 H.O. BROWN: Good point, Mr. Minasian. There was some  
4 groundwater extracted.

5 MR. FRINK: I can clarify that.

6 Mr. Wilson let's step back a minute. Your revised  
7 Exhibit 15A, if we look at the column of total historical  
8 diversion demands, do you have that?

9 MR. WILSON: I do.

10 MR. FRINK: Now that includes the amount of groundwater  
11 that was pumped at the request of State of California in  
12 order to make water available to the state water bank; is  
13 that correct?

14 MR. WILSON: That's correct.

15 MR. FRINK: If I want to get a good idea of what the  
16 present actual diversion demand is for below normal, dry and  
17 critical years, should I look at what the diversion  
18 requirements have recently been in those years or should I  
19 look at the estimated water demand on the basis of a study  
20 of irrigatable acreages of various kind of crops?

21 MR. WILSON: Not totally. The critical, dry years that  
22 are listed here are several years back, and the more current  
23 years, which are wet years, there have been additional lands  
24 added that are not reflected in those earlier numbers.

25 MR. FRINK: Could you give me a quick estimate on the

1 additional quantity of land added in recent years, say,  
2 since 1994?

3 MR. WILSON: That are accounted for in these water  
4 deliveries? We have some recent ones, and I am just trying  
5 to sort that out.

6 Several thousand acres, but right now I couldn't give  
7 you a very good number.

8 MR. FRINK: I am interested in historical water demand  
9 figures shown for 1997, '98 and '99. Based on information  
10 in Exhibit 15A, all of those years were wet years. Yet the  
11 amount of diversion varied by approximately 68,000 acre-feet  
12 between 1998 and 1999.

13 Do you have a possible explanation for that difference?

14 MR. WILSON: Part of it depends on how late the rains  
15 came. If we had very heavy rains in April or May, March  
16 April, there would be less water applied. Basically the  
17 timing of the rains.

18 MR. FRINK: Do the historical diversion numbers shown  
19 for 1997 include either water transfers that occurred that  
20 year?

21 I believe the water transfers that you have reported  
22 are shown in Yuba County Water Agency Exhibit 13. And in  
23 1997 there was a transfer to the Bureau of Reclamation for  
24 20,000 acre-feet and 50,000 acre-feet to the Sacramento Area  
25 Flood Control Agency.

1           Are either of those numbers reflected in the historical  
2 diversion demands for 1997?

3           MR. WILSON: No.

4           MR. FRINK: I believe you stated in your written  
5 statement that state law will or state law requires the  
6 burning of rice straws now limited to 38 percent and will  
7 soon be limited to 25 percent of the acreage of rice  
8 planted.

9           You also went on to state the Yuba County agri crop  
10 report shows rice was the leading agricultural commodity in  
11 Yuba County.

12           Do you know how many acres were planted in rice in 1998  
13 in the Yuba County Water Agency service area?

14           MR. WILSON: I think I can get the number for you, but  
15 I don't have it directly in front of me.

16           MR. FRINK: Do you know how long it would take?

17           MR. WILSON: I am not positive I have it, but I think I  
18 do. Two, three, four minutes.

19           MR. FRINK: Let me ask you another question to see if  
20 this helps.

21           Do you believe the number of acres planted in rice in  
22 1998 exceeded the rice acreage that is identified in  
23 Appendix A on your Exhibit 13? If you look at Appendix A on  
24 13 it gives district-by-district figure of the amount of  
25 rice land.

1           MR. LILLY: Excuse me, I think Mr. Frink means Exhibit  
2 15.

3           MR. FRINK: Yes. Mr. Frink does mean Exhibit 15.  
4 Thank you. Appendix A to Exhibit 15.

5           MR. LILLY: Now that we have Appendix A in front of us,  
6 I request Mr. Frink to repeat the question.

7           MR. FRINK: Would adding up the acreage shown for rice  
8 in Appendix A of Yuba County Water Agency Exhibit 13, would  
9 that give us a rough idea on the acreage planted for rice in  
10 1998? It gives the rice acreage planted for each district.

11          MR. WILSON: Which page is that?

12          MR. FRINK: Appendix A. It is several pages,  
13 actually. Beginning on Page 2 of 7, for Brophy Water  
14 District, for instance, it shows rice 7,700 acres for rice.  
15 For Browns Valley, rice 4,400 acres.

16          MR. WILSON: I would guess it is within the ballpark,  
17 but I don't know specifically.

18          MR. FRINK: I added up those numbers for the rice crop  
19 acreage in Appendix A and I came up with 35,876 acres?

20                 Does that sound approximately right?

21          MR. WILSON: That is generally the range of rice  
22 acreage that I am aware of.

23          MR. FRINK: I believe elsewhere in Yuba County Water  
24 Agency exhibits it is stated that in your modeling you  
25 assumed that up to 90 percent of rice acreage would be

1 flooded for rice straw decomposition/waterfowl habitat; is  
2 that correct?

3 MR. WILSON: I believe that was the criteria that was  
4 used.

5 MR. FRINK: Now, exhibit or Appendix A also includes  
6 some rice acreage for Wheatland and the Wheatland  
7 detachment.

8 Did Yuba County Water Agency supply any water for rice  
9 in 1999 to Wheatland or Wheatland detachment?

10 MR. WILSON: Not that was not accounted for in Dry  
11 Creek.

12 MR. FRINK: Now, if I were to subtract the Wheatland  
13 and Wheatland detachments from the 35,000 acre-feet of rice  
14 cropland, 35,876 acres of rice cropland, and then take 90  
15 percent of that amount, does the figure 31,508 acres sound  
16 approximately correct?

17 MR. WILSON: From the numbers you have given me, yes.

18 MR. FRINK: I am looking at your Exhibit 15A now.  
19 Excuse me, I am looking at Exhibit S-Yuba County Water  
20 Agency-12. From 1999 for waterfowl habitat it says that the  
21 amount of deliveries was 62,543 acre-feet?

22 MR. WILSON: That's water that was delivered, yes, in  
23 the fall.

24 MR. FRINK: Were you here yesterday when Mr. Reid  
25 testified about the need to supply adequate water for

1 waterfowl habitat?

2 MR. WILSON: I was.

3 MR. FRINK: Do you agree with his figures that  
4 approximately one acre-feet of applied water per acre of  
5 rice is a good amount to assume necessary for supplying  
6 waterfowl habitat?

7 MR. WILSON: In our planning that is the figure that we  
8 use.

9 MR. FRINK: Now if we were to assume that up to 31,500  
10 acres of rice cropland were flooded in 1999, can you explain  
11 how the amount of water delivered for waterfowl habitat for  
12 that year would be 62,543 free acre-feet?

13 MR. WILSON: Not totally. However, it is my  
14 understanding that land other than rice lands are at times  
15 flooded for waterfowl habitat.

16 MR. FRINK: Do you have a number of the number acres of  
17 land that were flooded for waterfowl habitat in 1999?

18 MR. WILSON: I do not.

19 MR. FRINK: Who compiled the numbers in Yuba County  
20 Water Agency Exhibit 27?

21 H.O. BROWN: Mr. Frink, at a convenient time in your  
22 questioning in the next two or three minutes, we will take a  
23 break until Friday, or Thursday.

24 MR. FRINK: Okay. That might be better.

25 MR. BROWN: At the appropriate time convenient to you

1 within the next couple of minutes you break off and we will  
2 adjourn.

3 MR. WILSON: The answer to that question is Nancy  
4 Jones.

5 MR. FRINK: Is Nancy Jones an employee of Yuba County  
6 Water Agency?

7 MR. WILSON: She is Assistant Administrator for Yuba  
8 County Water Agency.

9 MR. FRINK: It may actually be Nancy Jones may be the  
10 appropriate one to ask these questions to. In looking at  
11 the numbers shown in Exhibit 27 for 1999, call your  
12 attention to the numbers shown for the Cordua Irrigation  
13 District. There was 52,000 acre-feet of water delivered for  
14 other purposes and 21,930 acre-feet delivered for waterfowl  
15 habitat.

16 Looking at the numbers in your Exhibit 15, that  
17 estimated 8,000 acres of rice within Cordua Irrigation  
18 District, 90 percent of which would be 7,200 acres.

19 Do you know why the figure of approximately -- the  
20 7,200 acres, if we flooded all 90 percent of rice, we'd come  
21 up with about 7,200 feet? Do you have an explanation of  
22 21,930 acre-feet were delivered to Cordua Irrigation  
23 District waterfowl habitat?

24 MR. MINASIAN: Board Member Brown, first of all, I  
25 think the question is objectionable. It misstates the

1 testimony of Mr. Reid. Mr. Reid's testimony was that the  
2 optimum level of water was 12 inches above the surface.  
3 When he was asked whether or not he was including the  
4 consumptive use of filling the soil profiles, especially if  
5 it was plowed, he agreed that he was not including that. It  
6 is further objectionable in that we are going to have a  
7 witness from Cordua Irrigation District who will be able to  
8 answer these questions directly.

9 I think Mr. Wilson will be the first person to indicate  
10 he does not know the day-to-day operations of Cordua.

11 H.O. BROWN: Thank you, Mr. Minasian. It was my  
12 impression, too, that the applied water rate was somewhat  
13 greater than one acre-feet per acre to compensate for  
14 evapotranspiration, and what may be remaining due to  
15 evaporation and the furrows itself.

16 But this may be a good time to break. If you hang on  
17 to the question, it will give a chance for the parties to  
18 contemplate the answer to it when we reconvene on Friday --  
19 checking to see if you were paying attention -- Thursday  
20 morning. Proud of all of you.

21 MR. LILLY: Mr. Brown, can we get an estimate from  
22 staff how much more time they are planning on questions?  
23 Everyone keeps calling me and saying when is my witness  
24 going to be able to be on? We need to schedule for  
25 Thursday.

1 H.O. BROWN: Staff.

2 MR. MONA: Five minutes.

3 MR. FRINK: Twenty to 25 minutes.

4 H.O. BROWN: Thirty minutes total more. So, it would  
5 be some time during the morning.

6 MR. MINASIAN: Could we do a similar estimate for  
7 people cross-examining Mr. Rue and Mr. Mathews who I will  
8 put on as a panel because Scott has a problem in terms of  
9 determining his witnesses.

10 H.O. BROWN: Those who are going to cross Mr. Mathews  
11 and the other gentleman --

12 MR. MINASIAN: Mr. Rue, South Yuba Water District.

13 H.O. BROWN: All those who are going to cross, please  
14 stand up. Give me your times and add them up, Mr. Frink.

15 MR. LILLY: Five minutes max.

16 H.O. BROWN: Mr. Cunningham.

17 MR. CUNNINGHAM: Five to ten.

18 H.O. BROWN: Mr. Cook.

19 MR. COOK: I would say 15 minutes each.

20 MR. FRINK: Thirty for Rue and Mathews.

21 H.O. BROWN: Mr. Sanders.

22 MR. SANDERS: Thirty for both of them.

23 H.O. BROWN: Mr. Baiocchi.

24 MR. BAIOCCHI: Twenty minutes for both.

25 H.O. BROWN: About four hours.

1 Thank you very much.  
2 What did it turn out to be?  
3 MR. FRINK: Two hours 35 minutes, plus staff.  
4 H.O. BROWN: Couple hours, probably, Mr. Minasian.  
5 We are adjourned until Thursday.

6 (````Hearing adjourned at 3:00 p.m.)

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1 REPORTER'S CERTIFICATE

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STATE OF CALIFORNIA )  
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COUNTY OF SACRAMENTO )

I, ESTHER F. WIATRE, certify that I was the official Court Reporter for the proceedings named herein, and that as such reporter, I reported in verbatim shorthand writing those proceedings;

That I thereafter caused my shorthand writing to be reduced to typewriting, and the pages numbered 1345 through 1502 herein constitute a complete, true and correct record of the proceedings.

IN WITNESS WHEREOF, I have subscribed this certificate at Sacramento, California, on this 18th day of March 2000

\_\_\_\_\_  
ESTHER F. WIATRE  
CSR NO. 1564

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